

AMENDED IN ASSEMBLY JULY 27, 2004

AMENDED IN ASSEMBLY JUNE 29, 2004

SENATE BILL

No. 1102

Introduced by Committee on Budget and Fiscal Review

January 12, 2004

~~An act relating to the Budget Act of 2004.~~ *An act to amend Sections 352, 18800, 23095, and 25658.1 of the Business and Professions Code, to add and repeal Section 3294.5 of the Civil Code, to amend Sections 215, 405.20, 405.22, 1021.8, and 1502 of the Code of Civil Procedure, to amend Section 1502.5 of the Corporations Code, to add Article 20.5 (commencing with Section 69999.6) to Chapter 2 of Part 42 of the Education Code, to amend Sections 10404.5 and 10405.7 of the Elections Code, to add Section 221.1 to the Food and Agricultural Code, to amend Sections 905.2, 910.4, 910.8, 911, 11011, 11011.1, 11011.2, 11011.3, 11011.4, 11011.5, 11011.6, 11011.8, 11011.9, 11794, 12012.90, 12152, 12439, 12715, 13332.11, 13332.19, 13923, 14612.2, 14661, 15201, 16182, 16320, 16351, 16427, 23344, 27297.5, 29550, 30070, 63021.5, 65583, 69926.5, 69957, 71601, 71630, 71636, 71639.3, 71823, and 77202 of, to amend and repeal Section 29550.4 of, to add Sections 14604, 65584.1, 65584.2, 68511.8, 69958, 71639.4, 71639.5, 71825.1, and 71825.2 to, to add and repeal Sections 8690.6, 11011.10, and 12432 of, to repeal Sections 11006 and 13332.04 of, and to repeal and add Sections 71639.1 and 71825 of, the Government Code, to amend Sections 50710.1 and 53533 of, and to add Section 13138 to, the Health and Safety Code, to amend Section 2065 of the Labor Code, to amend Sections 4750, 4751, 4752, 4753, and 6005 of, and to add Sections 4751.5, 4753.5, and 5023.5 to, the Penal Code, to add Section 10108.8 to the Public Contract Code, to amend Sections*

25630 and 26020 of, and to add Section 25226 to, the Public Resources Code, to add Section 884.5 to the Public Utilities Code, to amend Sections 63.1, 2514, 8352, and 30462 of the Revenue and Taxation Code, to amend Section 1587 of the Unemployment Insurance Code, to amend Section 21401 of, and to repeal Section 42272, of the Vehicle Code, to amend Section 3 of Chapter 899 of the Statutes of 1995, and to amend Section 30 of Chapter 573 of the Statutes of 2003, relating to state government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1102, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2004~~ General government.

(1) Existing law prescribes certain duties of the Department of Consumer Affairs relating to privacy protection.

This bill would authorize funding sources other than the General Fund to be used for that activity.

(1.5) Existing law, the Boxing Act, provides for the regulation of boxing, martial arts, and kickboxing contests by the State Athletic Commission. Existing law requires every person who conducts a boxing contest or wrestling exhibition to furnish to the commission a report showing the number of tickets sold and gross receipts, and the amount of broadcasting revenues earned for the contest or exhibition, for the purpose of determining the fees to be paid to the commission by that person. Existing law establishes a fee of 5% of gate admission revenues plus 5% of broadcasting revenues to be paid to the commission, except that until January 1, 2006, the maximum gate fee for any one boxing contest may not exceed \$100,000. The fees are deposited into the General Fund.

This bill would require the fee revenues to be deposited in the Athletic Commission Fund, which would be created by the bill, rather than in the General Fund.

(2) The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, and the suspension of alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law authorizes an alcoholic beverage licensee whose license has been suspended for 15 days or less for selling or furnishing alcoholic beverages to a minor to petition the Department of Alcoholic Beverage Control for permission to make an offer in compromise,



before the operative date of the suspension of the alcoholic beverage license and to pay an amount in lieu of serving the suspension.

This bill would generally prohibit a licensee from petitioning the department for an offer in compromise in any case in which the proposed suspension is for a period in excess of 15 days. The bill would authorize an alcoholic beverage licensee to petition the department for an offer in compromise for a 2nd violation of provisions relating to selling or furnish alcoholic beverage to minors that occurs within 36 months of the initial violation without regard to the period of the suspension, and would establish the amount of the offer in compromise for various violations, as specified.

(3) Under existing law, a licensee may not petition the Department of Alcoholic Beverage Control for an offer in compromise for a 2nd or subsequent violation of provisions relating to selling alcoholic beverages to a minor within 36-months of the initial violation.

This bill would instead prohibit a licensee from petitioning the department for an offer in compromise for a 3rd or subsequent violation of these provisions within 36 months of the initial violation.

(3.5) Existing law provides that in an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

This bill would provide, with respect to an action filed after the effective date of the bill that results of a final judgment or settlement that is rendered on or before June 30, 2006, and includes punitive damages, that the punitive damages shall be apportioned according to a specified formula. Pursuant to this formula, 25% would be paid to the plaintiff or plaintiffs and 75% of the award would be paid to the Director of the Department of Finance for deposit into the Public Benefit Trust Fund, which would be created by the bill. The fund would be administered by the Department of Finance. Of the amounts deposited into the fund, 25% would be continuously appropriated to pay the plaintiff's attorney, as specified, and the remainder would be available for annual appropriation in the Budget Act, to be used for purposes consistent with the nature of the award, as specified.

The bill would specify the state and local income tax treatment of punitive damages awards. The bill would further specify that the state shall not be a party in interest to, or intervene in, the underlying action,



and that the sole right of the state shall be to the proceeds payable to the Public Benefit Trust Fund. The bill would also prohibit informing a jury that a portion of a punitive damages award will be paid to a government fund or that a punitive damages award would result in a windfall to the plaintiff.

(4) Existing law provides that when the Attorney General prevails in a civil action to enforce specified public rights, the court shall award the Attorney General all costs of investigating and prosecuting the actions, including expert witness fees, reasonable attorney's fees, and costs. Existing law provides that these moneys be paid to the Public Rights Law Enforcement Special Fund, administered by the Department of Justice.

This bill would add actions to enforce a variety of other civil laws for which costs may be awarded pursuant to the provisions described above. In these provisions, the bill would include actions to enforce laws related to public nuisances, corporate securities, air resources, forest practices, tobacco sales, and waste management, among others and would be operative, as specified.

(5) The Unclaimed Property Law establishes uniform procedures for, among other things, deposits or accounts that escheat to the state, provides that property received by the state under its provisions does not permanently escheat to the state, and exempts from its provisions, among other things, any instrument issued in a foreign country and any funds held only in a foreign country.

This bill would delete these 2 exemptions.

(6) Provisions of law that became inoperative on July 1, 2003, and that were repealed on January 1, 2004, established the Governor's Scholarship Programs under the administration of the Scholarshare Investment Board. Existing law authorizes the board to continue to administer the scholarship accounts established under the repealed law.

This bill would express the intent of the Legislature to provide explicit authority to the board to continue to administer accounts for, and to make awards to, persons who qualified for awards under the provisions of the Governor's Scholarship Programs as those provisions existed on January 1, 2003, and to provide for the management and disbursement of funds previously set aside for the Governor's Scholarship Programs.

The bill would authorize the board to manage and disburse the funds previously set aside for the Governor's Scholarshare Programs. The bill would provide that a person who earned an award under these



programs, but who has not claimed the award on or before June 30, 2004, may claim the award prior to a specified deadline. The bill would authorize the board to adopt rules and regulations for the implementation of the bill.

The bill would require the board to transfer from the Golden State Scholarshare Trust to the General Fund, not later than 30 days following the enactment of the Budget Act of 2004, the lesser of (a) \$50,000,000 or (b) the balance in excess of \$5,000,000 resulting from unclaimed existing awards under these programs as of the close of business on the business day preceding the date of transfer. The bill would provide that the amount remaining in the Golden State Scholarshare Trust following this transfer would be available as a reserve for funding claims for these awards. The bill would specify that, if the amount of the claims received by the board exceeds \$4,000,000, the board would be required to notify the Controller of any shortfall in the reserve for the payment of claims and the Controller would be required to transfer moneys from the General Fund to the Golden State Scholarshare Trust in an amount equal to the shortfall, thereby making an appropriation.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

Existing law requires a county board of supervisors, prior to adopting a resolution to approve or deny requests to consolidate specified local elections, to obtain from the county elections official a report on the cost-effectiveness of the proposed consolidation.

Existing law requires that specified documents related to a real property claim be recorded with a county recorder.

Existing law requires a county recorder to notify debtors of the recordation of involuntary liens affecting the title of real property.

Existing law requires a county assessor to report quarterly to the State Board of Equalization on specified property purchases or transfers between family members that involve a claim for exclusion from “change of ownership” assessment requirements.

Existing law requires that firefighters be provided with specified personal alarm devices.



Existing law requires various local officials to file and record specified documents as a part of a program that allows senior citizens to defer payment of property taxes.

Existing law requires that any traffic signal controller that is newly installed or upgraded by a local authority shall be of a standard traffic signal communication protocol capable of 2-way communications.

This bill would make these requirements optional, thereby eliminating state-mandated local programs, but would state that the Legislature, in recognition of the state and local interests served by these programs, encourages local agencies and officials to continue taking the actions formerly mandated by these provisions, and states that nothing in this statement of encouragement may be construed to impose any liability on a local agency that does not continue to take a formerly mandated action.

(8) Existing statutory provisions require the Commission on State Mandates to issue parameters and guidelines and the Controller to issue claiming instructions that govern how local agencies and school districts may seek reimbursement for state-mandated local programs.

This bill would require the commission to amend the appropriate parameters and guidelines, and the Controller to revise the appropriate reimbursement claiming instructions to be consistent with the provisions of this bill.

(9) Existing law requires a corporation to file an annual statement containing certain information with the Secretary of State and to pay various filing fees, including a \$5 disclosure fee, $\frac{1}{2}$ of which is deposited into the Victims of Corporate Fraud Compensation Fund. The fund is administered by the Secretary of State and the revenue in the fund is required to be used solely for providing restitution to the victims of a corporate fraud.

This bill would continuously appropriate the money in the Victims of Corporate Fraud Compensation Fund to the Secretary of State for that purpose.

(10) Existing law establishes the Food and Agriculture Fund, a continuously appropriated fund used for specified purposes relating to enforcement of various provisions of law relating to various agriculture programs. The fund is exempt from various other provisions of law requiring the submissions of budgets and the contents thereof by state agencies.

This bill would provide that notwithstanding those provisions, the Department of Food and Agriculture would be required to establish all



permanent positions with the Controller's office pursuant to standard state administrative practices, and to report to the chairs of the fiscal committees of the Legislature, no later than January 10, 2005, on the positions established and funded, as specified. The bill would make related changes.

(11) The Disaster Assistance Act authorizes the Director of Emergency Services to allocate funds appropriated for the purposes of the act from various accounts for the costs incurred by local and state agencies. Among the costs that may be funded are local agency personnel costs, excluding normal hourly wage costs of regularly assigned emergency services and public safety personnel; costs to repair, restore, reconstruct, or replace facilities belonging to local agencies damaged as a result of a disaster; and indirect administrative costs.

This bill would, until January 1, 2006, establish the Disaster Response-Emergency Operations Account within the Special Fund for Economic Uncertainties, and would continuously appropriate the moneys in the account, subject to specified limitations, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a proclamation of a state of emergency by the Governor.

(12) Existing statutory law requires each state agency to annually review of all proprietary state lands over which it has jurisdiction, with specified exceptions, to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. The department is required to report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise, subject to specified conditions. When the department determines any of the land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state. When authority is granted for the sale or other disposition of lands declared excess, and the department has determined that the use of the land is not needed by any other state agency, the Department of General Services is required to sell or otherwise dispose of the land, subject to specified conditions. The department is authorized to sell the land to a public agency that has given written notice to the department of its intent to purchase the land within 60 days after receipt of notice from the department. If the agreement is not executed within an additional 90 days, the department



is authorized to offer the land for sale in the normal manner, except that this time limit may be extended under certain conditions. In specified cases the department is authorized to transfer the land to local public agencies for less than fair market value. Proceeds of sales and rentals, and other revenues of real property are required to be deposited in the General Fund.

Executive Order S-10-04, among other things, requires all state agencies, departments, boards, and commissions to review the current and anticipated programmatic need for the state-owned and leased property that they occupy or have under their stewardship, and identify and report any property surplus to their current or future needs.

This bill would provide that these statutory provisions shall be inoperative until July 1, 2005. The bill would instead, until July 1, 2005, require all state agencies, departments, boards, and commissions, that have not already done so pursuant to Executive Order S-10-04, to review the current and anticipated future programmatic need for the state-owned and leased property that they occupy or have under their stewardship, and identify and report any property surplus to their current or future needs to the Department of General Services. It would require the department to review the properties identified pursuant to these reports to determine whether those properties are surplus to the needs of the state, report the surplus properties to the Legislature, and request authorization from the Legislature to dispose of the properties by sale or otherwise, subject to specified conditions. It would authorize the department to sell or otherwise dispose of property as authorized by the Legislature pursuant to these provisions or by previous legislative action, which has been determined by the department not to be needed by any state agency. It would require the property to be offered to local governmental agencies who notify the department of their interest in the surplus state property within 60 days of receiving notice of the availability of the property, and would require the sale of the property to a local agency to be completed, and title transferred, within 90 days of the date the local governmental agency was notified of the availability of the property. It would specify that if the sale of a surplus state property to a local governmental agency is not completed within the 90 day timeframe, the department would be required to offer the property for sale to private entities or individuals. It would require the transfers or sale of surplus property to local governmental agencies or private entities or individuals pursuant to this subdivision to be at fair market value, and provide that except as otherwise required by the



California Constitution or federal law, the net proceeds of any property disposition, or rental moneys or other revenues, would be deposited in the General Fund as specified.

This bill would appropriate \$2,800,000 from the Property Acquisition Law Money Account to the department for the 2004–05 fiscal year, for activities associated with the disposal of surplus state property pursuant to the bill.

(13) Existing law authorizes the Stephen P. Teale Data Center to establish rates and collect payments from state agencies for providing services to those agencies. The methodology for computing costs and billing rates is subject to the approval of the Director of Finance.

This bill would require the data center or its successor entity to, commencing no later than August 1, 2005, and no later than August 1 annually thereafter, submit to the Department of Finance a proposal that reconciles the current fiscal year rates and details any adjustments proposed for budget fiscal year rates to be included in the Governor’s Budget.

(14) Existing law ratifies specified tribal-state gaming compacts and establishes in the State Treasury the Indian Gaming Special Distribution Fund for the receipt and deposit of gaming device license fee moneys received from Indian tribes pursuant to the terms of the tribal-state compacts. Existing law additionally creates in the State Treasury the Indian Gaming Revenue Sharing Trust Fund for the receipt and deposit of moneys derived from gaming device license fees paid by compact tribes and authorizes moneys in the Indian Gaming Special Distribution Fund to be used to make payment of shortfalls that occur in the Indian Gaming Revenue Sharing Trust Fund. Under existing law, the California Gambling Control Commission, upon authorizing the final payment for each fiscal year from the Indian Gaming Revenue Sharing Trust Fund, is required to report the amount of the deficiency in payments to that fund to a specified legislative committee.

This bill would instead require the California Gambling Control Commission to provide to the committee an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year. The bill would additionally prohibit an eligible recipient Indian tribe from receiving an amount from the backfill in excess of \$275,000 per eligible quarter and would specify that surplus funds in the Indian Gaming Revenue Sharing Trust Fund would revert back to the Indian Gaming



Special Distribution Fund after the authorization of the final payment of the fiscal year.

(15) Existing law, operative until January 1, 2009, establishes the method of calculating the distribution of appropriations from the Indian Gaming Special Distribution Fund for grants to local government agencies impacted by tribal gaming. Under existing law, the Controller, acting in consultation with the California Gambling Control Commission, is responsible for dividing County Tribal Casino Accounts into Individual Tribal Casino Accounts, from which funds may be allocated for grants to local jurisdictions impacted by tribal gaming. Existing law creates an Indian Gaming Local Community Benefit Committee in each county in which gaming is conducted, and that committee is responsible for selecting grants projects, pursuant to certain grant application policies and procedures, and administered by the county.

Existing law sets forth the percentages of each Individual Tribal Casino Account that are to be allocated to various types of grants, with 20% of each Individual Tribal Casino Account available for discretionary grants to local jurisdictions impacted by tribes that are not paying into the Indian Gaming Special Distribution Fund. Existing law specifies that funds not allocated from an Individual Tribal Casino account by the end of each fiscal year revert back to the Indian Gaming Special Distribution Fund.

This bill would provide that if an eligible county does not have a tribal casino operated by a tribe that does not pay into the Indian Gaming Special Distribution Fund, the moneys available for those discretionary grants would instead be available for distribution to local jurisdictions impacted by tribes paying into that fund, as specified. The bill would also provide that moneys in County Tribal Casino Accounts and Individual Tribal Casino Accounts allocated for the 2003–04 fiscal year are eligible for expenditure through December 31, 2004. The bill would make related changes. By placing additional duties on the counties, this bill would impose a state-mandated local program.

(16) Existing law authorizes the Department of General Services to charge fees for services to state agencies, subject to specified conditions.

Existing law generally requires state agencies to submit to the Department of Finance for approval, a budget setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year.



This bill would require the Department of General Services, commencing no later than August 1, 2005, and no later than August 1 annually thereafter, to submit to the Department of Finance a proposal that reconciles the current fiscal year rates for service fees charged by the Department of General Services to state agencies, and details any adjustments proposed for budget fiscal year rates to be included in the Governor's Budget.

(17) Existing law provides that 2 employees of the Secretary of State's office shall be appointed by the Governor and are exempt from state civil service.

This bill instead would require the Governor to appoint 4 employees of the Secretary of State's office, who may be nominated by the Secretary of State, and who are exempt from state civil service.

(18) Existing law prescribes duties of the Controller in connection with human resource and payroll systems.

This bill would authorize the Controller to assess certain funds, as specified, in amounts sufficient to pay the costs of a human resource project known as the 21st Century Project.

(19) Existing law establishes the California Victim Compensation and Government Claims Board that provides, pursuant to specified procedures, for compensation to claimants who are victims or derivative victims, as defined, who sustain injury or death as a direct result of a crime.

This bill would require a filing fee by claimants who do not proceed in forma pauperis and authorize the board to assess a surcharge not to exceed 15% of the total approved claim, as specified, to support the expense of administering the government claims program for all claims filed after June 30, 2004, or the effective date of this bill. The bill would also require the costs of the California employee's annual charitable campaign fund drive to be created from the agency that receives the contributions and would make other technical changes to these provisions.

(20) Existing law prohibits state agencies, including the University of California, the California State University, and the community colleges, from expending funds appropriated for capital outlay until the Department of Finance and the State Public Works Board have approved preliminary plans for the project to be financed from the appropriation for capital outlay. Existing law specifies that the requirement that preliminary plans be approved by the department and the State Public Works Board, with the exception of approvals for the



community colleges, does not apply to the acquisition of land or other real property and amounts needed for equipment. Existing law requires the State Public Works Board to defer all augmentations in excess of 20% of the amount appropriated for each capital outlay or design-build project until the Legislature makes additional funds available.

This bill would clarify that approvals by the State Public Works Board and the Department of Finance for the University of California, as well as for community colleges, apply only to the allocation of state capital outlay funds appropriated by the Legislature, including land acquisition and equipment funds. The bill would expressly state that the State Public Works Board may augment a major project in an amount of up to 20% of the total of the capital outlay appropriations for the project and increase the financing authorized under existing law to include a reasonable construction reserve within the construction fund for any capital outlay project without augmenting the project. The bill would authorize the State Public Works Board to use this amount to augment the project, when and if necessary, after the lease revenue bonds are sold, and upon completion of the project any amount remaining in the construction reserve funds would be used to offset rental payments.

(21) Existing law prohibits spending more than \$2,000 of appropriated funds for any single unit of equipment until the Department of Finance has given prior approval for the purchase.

This bill, among other things, would require the Department of Finance to approve the use of funds from a capital outlay appropriation for the purchase of any significant unit of equipment.

(22) Existing law requires the Department of General Services to perform various functions and duties with respect to state property.

Existing law authorizes the Department of General Services, when authorized by the Legislature to use the design-build procurement process for a specific project, to contract and procure state office facilities, other buildings, structures, and related facilities.

This bill would conform the statutory authority of the State Public Works Board with regard to augmenting a design-build project in an amount of up to 20% of the total of the capital outlay appropriations for the project, including a reasonable construction reserve within the construction fund for a design-build project, and authorizing the use of this reserve, to the statutory authority of the State Public Works Board with respect to capital outlay projects.



The bill would require that any augmentation in excess of 10% of the amounts appropriated for each design-build project, in addition to other capital outlay projects, be reported to the Chairperson of the Joint Legislative Budget Committee or his or her designee within a prescribed time period. This bill would revise the definitions of terms used in these design-build project provisions.

(23) Existing law would repeal provisions authorizing state contracting out of printing services on January 1, 2005.

This bill would extend those provisions indefinitely.

(24) Existing law authorizes the Department of Finance to authorize the creation of deficiencies in any appropriation in the case of actual necessity and if the department complies with certain notification procedures to the Legislature. Existing law also specifies a procedure for the approval of emergency expenditures, as defined.

This bill would repeal those provisions and make conforming changes.

(25) Existing law requires, on August 1 of each year, the Director of Finance to report in writing to the Chairperson of the Joint Legislative Budget Committee the balances of outstanding loans from one state fund or account to any other state fund or account to address specified budgetary shortfalls. Existing law requires, on February 1 of each year, the director to provide an updated report to the chairperson of the loan balances.

This bill would require the Director of Finance to provide a report on General Fund obligations to the Chairperson of the Joint Legislative Budget Committee and to the chairpersons of the fiscal committees of the Assembly and the Senate, as specified.

(26) Existing law establishes the Litigation Deposit Fund in the State Treasury, consisting of all money received as litigation deposits where the state is a party to the litigation, subject to specified conditions. The fund is under the control of the Department of Justice, which is required to maintain accounting records pertaining to the fund. Any residue remaining in a deposit account after satisfaction of all court-directed claims for that account is required to be transferred to the General Fund.

This bill would additionally require the department to prepare and submit to the chairpersons of specified legislative committees quarterly reports concerning the activity of the fund, to contain specified information. It would require the department to notify the Department of Finance no later than 15 days after a transfer from the fund. It would



also require that the residue remaining in a deposit account after satisfaction of all court-directed claims, or payment of departmental expenditures, be transferred to the General Fund no later than July 1 of each fiscal year.

(27) Existing law authorizes a county to impose, among other fees with respect to criminal justice services, a booking fee upon other local agencies and colleges and universities for county costs incurred in processing or booking persons arrested by employees of those entities and brought to county facilities for booking and detention. Existing law continuously appropriates up to \$50,000,000 annually from the General Fund to the Controller commencing with the 1999–2000 fiscal year for allocation to cities and qualified special districts for actual booking and processing costs paid to the counties.

This bill would limit the booking fees that may be imposed in the 2004–05 and 2005–06 fiscal years, as specified, and repeal that continuous appropriation for the 2005–06 and subsequent fiscal years.

(28) Under existing law, the California Infrastructure and Economic Development Bank is established in the Business, Transportation and Housing Agency. The board of directors of the bank consists of the Director of Finance, the Treasurer, and the Secretary of Business, Transportation and Housing, or their designees.

This bill would include the Secretary of State and Consumer Services and an appointee of the Governor on the board of directors of the bank, and would require 3 members to constitute a quorum and to take action.

(28.5) Existing law suspends an appropriation from the General Fund, and allocation to county sheriff's departments, of funds for enhanced law enforcement for the 2004–05 fiscal year.

This bill would delete that suspension, thereby making an appropriation.

(29) Existing law prescribes requirements for matters to be included in a city or county general plan housing element, including an analysis of the locality's share of the required housing need, an analysis of opportunities for residential energy conservation, and an analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter.

This bill would provide for that energy conservation analysis to be at the option of local government. The bill would require the Department of Housing and Community Development to adopt regulations relative to the special housing needs analysis and would provide that any



actions taken by local government beyond those regulations are optional. The bill would specify that a local government may, but is not required to, conduct a review or appeal regarding the allocation of data pertaining to its share of the regional housing need.

The bill would authorize a local government or council of governments to charge a fee to cover costs related to the distribution of regional housing needs.

The bill would require the Commission on State Mandates to review specified decisions of the former State Board of Control to determine whether the enactment of requirements relative to determining the regional housing needs is a reimbursable state mandate.

(30) Existing law provides a procedure for the formation and creation of new counties from portions of one or more existing counties. As part of that procedure the Governor creates a county formation review commission to review the proposed county creation. The commission may borrow money to meet its expenses or may request the Controller to make a loan of not to exceed \$100,000 from the County Formation Revolving Fund to be repaid within one year of the date on which the issue of county formation was voted on by the people. Existing law transfers money from the General Fund to that revolving fund, as specified.

This bill would authorize a commission to request a loan of up to \$400,000 from the Controller upon appropriation from the General Fund. The bill would eliminate the County Formation Revolving Fund and would require loan repayments to be deposited in the General Fund. The bill would provide that if loans are not repaid the Controller may reduce moneys allocated to the county pursuant to specified subventions provided for in existing law in an amount equal to the amount of the loan that is owed to the state.

(31) Existing law authorizes a county to impose, among other fees with respect to criminal justice services, a booking fee upon local agencies and colleges and universities for county costs incurred in processing or booking persons arrested by employees of those entities and brought to county facilities for booking or detention with specified exceptions. Existing law continuously appropriates up to \$50,000,000 annually from the General Fund to the Controller for allocation to cities and qualifying special districts for reimbursement for actual booking and processing costs paid to counties.

This bill would repeal the provision providing for this continuous appropriation.



(32) Existing law establishes a fee of \$15 a day for each day's attendance as a juror after the first day. The Department of Personnel Administration, by regulation, provides regular compensation to a state employee who serves as a juror, if that employee remits his or her fee for jury duty to the state.

This bill would prohibit payment of that \$15 fee to a juror who is employed by a federal, state, or local government entity, as specified, and who continues to receive regular compensation and benefits while performing jury service.

(33) Existing law defines county costs for purposes of provisions authorizing certain counties to apply to the Controller for the reimbursement of excessive county costs incurred as a result of a homicide trial, as specified.

This bill would specify that county costs, for those purposes, do not include costs paid for by the superior court or for which the superior court is responsible.

(34) Existing law requires the Judicial Council to adopt policies and procedures governing budgeting in, and management of, the trial courts, and specifies the duties of the Administrative Office of the Courts in that regard.

On and after December 1, 2004, this bill would require the Judicial Council and the Administrative Office of the Courts to annually report to specified legislative budget committees with regard to the implementation of the California Case Management System and Court Accounting and Reporting System, as specified. Upon implementation of those systems, the bill would require the Administrative Office of the Courts to provide postimplementation reports to those committees.

(35) Existing law establishes a \$10 or \$20 filing fee surcharge to be added to the total filing fee in civil cases, as specified, that are filed between January 1, 2004, and June 30, 2004, inclusive.

This bill would extend those filing fee surcharges until June 30, 2005, inclusive. However, the bill would make the filing fee surcharge provisions inoperative on July 1, 2005, or upon the enactment of a uniform filing fee, whichever is earlier.

(36) Existing law authorizes the use of electronic recording devices in specified court proceedings under certain circumstances.

This bill would prohibit a court from expending funds for electronic recording technology or equipment to make an unofficial record of an action or proceeding or to use that technology or equipment to make the official record of an action or proceeding in circumstances that are not

authorized, as specified. The bill would also require each superior court to report to the Judicial Council on or before October 1, 2004, and semiannually thereafter; and the Judicial Council to report to the Legislature on or before December 1, 2004, and semiannually thereafter; regarding all purchases and leases of electronic recording equipment that will be used to record superior court proceedings.

(37) The Trial Court Employment Protection and Governance Act and the Trial Court Interpreter Employment and Labor Relations Act prescribe rights and procedures with respect to relations between trial courts and their employees. Specifically, existing law authorizes a trial court and the regional court interpreter employment relations committee to adopt reasonable rules and regulations for the administration of employer-employee relations under the respective acts. Existing law also authorizes trial courts, trial court employees, and employee organizations, as defined, to petition the superior court, pursuant to procedures and rules adopted by each trial court and the Judicial Council or by the committee, if there has been a violation of the respective acts or to enforce written agreements between the parties.

This bill would provide that any violation of the acts or of any of the rules or regulations shall be processed as an unfair practice charge by the Public Employment Relations Board, as specified. The bill would authorize a party aggrieved by a decision of the board to petition the district court of appeal for relief and prescribe other procedures applicable to the enforcement of the board's decisions or orders.

The bill would also provide that any agreement between the parties that contains an arbitration provision shall be enforced under provisions of existing law relating to enforcement of arbitration agreements and would require the Judicial Council to adopt rules of court to, among other things, provide for the establishment of a panel of court of appeal justices to hear those matters. The bill would make related technical changes and legislative findings and declarations.

(38) Existing law requires the Legislature to make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the request of the Judicial Council.

This bill would provide that the Judicial Council's annual budget request shall be submitted to the Governor and the Legislature, and that it shall meet specified criteria, include a base funding adjustment for operating costs, as specified, and separately identify and justify other costs and adjustments, as specified.



(39) Existing law authorizes cities and counties to be reimbursed for specified costs incurred by them in connection with court proceedings involving a prisoner of a state prison or a person confined to a Department of the Youth Authority correctional institution.

This bill would authorize superior courts to be reimbursed by the Administrative Office of the Courts for specified costs incurred by the courts in connection with those proceedings.

(40) Existing law names various state buildings in honor of former public officials, as specified.

This bill would name a state building in the City of Fresno for the California Court of Appeal, Fifth Appellate District, as the “George N. Zenovich Court of Appeal Building.”

(41) Existing law prescribes duties of the State Fire Marshal relating to fire protection.

This bill would authorize the State Fire Marshal to charge state agencies for the cost of fire and life safety building inspections, and require the Controller to transfer those moneys to the appropriation for support of the office of the State Fire Marshal.

(42) Existing law allocates \$4,100,000 of bond proceeds under the Housing and Emergency Shelter Trust Fund Act of 2002 to the Department of Housing and Community Development for migrant worker projects.

This bill would increase that allocation to \$5,500,000.

(43) Existing law authorizes the Department of Housing and Community Development to increase rents for a migrant farm labor center assisted by the Office of Migrant Services above those charged at other such centers under specified circumstances.

This bill would prohibit a rent increase above 30% of the average annualized household incomes of residents of any such facility without legislative authorization.

(44) Existing law, until January 1, 2007, regulates the industry of car washing and polishing by providing specific recordkeeping requirements that employers of car washers must implement with regard to car washer wages, hours, and working conditions. Existing law also requires employers of car washers to register with the Labor Commissioner and pay a registration fee. Employers that fail to register are subject to a civil fine. These fines and registration fees are deposited in the Car Wash Worker Restitution Fund and the Car Wash Worker Fund for disbursement by the commissioner, upon appropriation by the Legislature.



This bill would clarify where these fines and registration fees are to be deposited.

(45) Under existing law, the Department of Corrections and the Department of the Youth Authority are generally required to provide health care to inmates and wards under their care.

This bill would allow these departments to contract with providers of emergency health care services. It would require hospitals that do not contract with the departments to provide these services on the same basis as they are required to provide them pursuant to specified provisions of federal law. The bill would require a provider of ambulance or any other emergency or nonemergency response service that does not contract with the departments to be reimbursed at the rate established by Medicare. The bill would prohibit the departments from reimbursing a hospital or provider of emergency or nonemergency response services that the departments have not contracted with at a rate that exceeds the hospital's reasonable and allowable costs, as defined.

(47) The State Contract Act governs contracting between state agencies and private contractors, and sets forth requirements for the procurement of materials, supplies, equipment, and services by state agencies. Existing law sets out the various responsibilities of state agencies in overseeing and implementing state contracting procedures and policies. Existing law also requires the Department of Corrections to require, among the general conditions under which bids will be received, that any person making a bid or offer to perform a contract include specified information in his or her bid or offer.

This bill would require the Department of Corrections, where feasible, to enter into 2 or more procurement contracts for the purchase and development of the Business Information System (BIS) Project. The bill would require that the BIS project be developed to allow integration with other relevant statewide financial and personnel systems.

(48) The existing California Alternative Energy and Advanced Transportation Financing Authority Act authorizes the California Alternative Energy and Advanced Transportation Financing Authority, among other things, to lend financial assistance to a participating party, as defined, for a project, as defined. The act authorizes the authority to incur indebtedness in an amount that does not exceed \$350,000,000 of total debt.



This bill would increase the maximum amount of authorized indebtedness to \$1,000,000,000 of total debt outstanding, and define “total debt outstanding.”

(49) The Rosenthal-Naylor Act of 1984, establishes the Energy Technologies Research, Development, and Demonstration Account (account) that is administered by the State Energy Resources Conservation and Development Commission (commission) to provide loans to specified entities for purposes generally relating to energy research, conservation, and development. Existing law repeals this act on January 1, 2005. Existing law also provides for the repeal of the Energy Research, Development, Demonstration, and Commercialization Act of 1993, on January 1, 2005, which provides specified procedures for the commission to enter into certain royalty agreements.

Existing law requires the commission to establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California’s small businesses. Existing law requires the loan repayments, specified interest, and royalties to be deposited in the account.

Existing law requires all funds from loan repayments and interest that become due for loans made by the commission pursuant to an agriculture energy assistance program be deposited in the account.

This bill would continue in existence, in the General Fund, for specified purposes, the Energy Technologies Research, Development, and Demonstration Account.

The bill would also require the interest rate for small business energy assistance loans to be based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account, and would delete references to the use of royalty agreements for these loans.

(50) Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the development, implementation, and administration of a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations, consistent with an uncodified statute requiring the commission to open and conclude a proceeding relative to the implementation of universal service in telecommunications. Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury and provides that moneys in the



fund, collected by telephone corporations in utility rates authorized by the commission and deposited into the fund, may only be expended for the purposes authorized, upon appropriation in the annual Budget Act. Existing law requires the commission to develop, implement, and administer a program to advance universal service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations.

Existing law declares the policies for telecommunications for California, including the policy to assist in bridging the ‘digital divide’ by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

This bill would require, for all customers eligible to receive discounts for telecommunications services under the federal Universal Service E-rate program (E-rate discounts) that also apply for discounts on telecommunications service provided through the California Teleconnect Fund program (teleconnect discounts), that the teleconnect discount be applied after applying the E-rate discount. The bill would require the commission to require, as a condition of participation in the California Teleconnect Fund program, that customers eligible for the E-rate discount provide the commission with information necessary for the commission to determine the percentage of the E-rate discount to which the customer would be entitled. The bill would require that the commission, in establishing discounts under the California Teleconnect Fund program, give priority to bridging the digital divide by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.

(51) Existing law requires the Department of Insurance to establish a program for residential grants and loans to help pay for the retrofitting of high-risk residential dwellings owned or occupied by low- and moderate-income households, in order to minimize the risk of earthquake damage to those dwellings and thereby reduce the costs of residential earthquake insurance. Existing law appropriates a specified amount from the California Residential Earthquake Recovery Fund to the department for the purposes of this program. Existing law limits the department to using no more than \$290,000 per fiscal year to administer the program. Under existing law, the funds are available until July 1, 2007, at which time the program ceases to be operative.

This bill would eliminate the provisions of law establishing this program. It would provide that money appropriated for this program



shall be available for expenditure until June 30, 2004, and that on and after that date, the program shall no longer be operative.

These provisions would become operative on July 1, 2004, or the date of enactment of the bill, whichever is later.

(52) *The Economic Recovery Bond Act approved by the voters at the March 2, 2004, statewide primary election, authorizes the issuance of bonds the proceeds of which would be deposited into the Economic Recovery Fund and transferred, subject to certain criteria, to the General Fund to fund the accumulated state budget deficit, as defined.*

Existing law authorizes the loan of funds from other funds, including the Special Fund for Economic Uncertainties in the General Fund, to the General Fund for the payment of General Fund deficits, according to specified criteria.

This bill would establish the Deficit Recovery Fund in the State Treasury. The bill would appropriate certain proceeds of the bonds issued pursuant to the Economic Recovery Bond Act that are deposited in the General Fund, from the General Fund for transfer by the Controller for the 2003–04 fiscal year to the Deficit Recovery Fund, upon approval by the Director of Finance. It would require the Director of Finance to use the moneys transferred to the Deficit Recovery Fund to reimburse General Fund expenditures for the 2003–04 and 2004–05 fiscal years, and would specify that moneys in the fund may be borrowed for General Fund cashflow purposes as authorized by existing law.

(53) *This bill would make various technical, nonsubstantive changes.*

(54) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(55) *This bill would declare that it is to take effect immediately as an urgency statute.*

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2004.~~

Vote: ~~majority~~ ^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

~~SECTION 1. It is the intent of the Legislature to enact
necessary statutory changes relating to the Budget Act of 2004.~~

*SECTION 1. Section 352 of the Business and Professions
Code is amended to read:*

352. (a) Subject to subdivision (b), the department shall
commence activities under this article no later than January 1,
2002.

(b) The provisions of this article shall only be operative for
those years in which there is an appropriation from the General
Fund in the Budget Act to fund the activities required by this
article.

*(c) Funding sources other than the General Fund may be used
to support this activity.*

*SEC. 3. Section 18800 of the Business and Professions Code
is amended to read:*

18800. As of July 1, ~~1994~~ 2004, all moneys received by the
commission under the provisions of this chapter shall be accounted
for and reported by detailed statements furnished by the
commission to the Controller at least once a month. At the same
time, these moneys, other than those that have been received by the
commission pursuant to Section 18882, shall be remitted to the
Treasurer and shall be deposited in the ~~General~~ Athletic
Commission Fund, which is hereby created.

*SEC. 7. Section 23095 of the Business and Professions Code
is amended to read:*

23095. (a) Whenever a decision of the department
suspending a license ~~for 15 days or less~~ becomes final, whether by
failure of the licensee to appeal the decision or by exhaustion of
all appeals and judicial review, the licensee may, before the
operative date of the suspension, petition the department for
permission to make an offer in compromise, to be paid into the
Alcohol Beverage Control Fund, consisting of a sum of money in
lieu of serving the suspension. ~~Upon~~

1 ***(b) No licensee may petition the department for an offer in***
2 ***compromise in any case in which the proposed suspension is for a***
3 ***period in excess of 15 days.***

4 ***(c) Upon the receipt of the petition, the department may stay the***
5 ***proposed suspension and cause any investigation to be made which***
6 ***it deems desirable and may grant the petition if it is satisfied that***
7 ***the following conditions are met:***

8 ***(1) The public welfare and morals would not be impaired by***
9 ***permitting the licensee to operate during the period set for***
10 ***suspension and the payment of the sum of money will achieve the***
11 ***desired disciplinary purposes.***

12 ***(2) The books and records of the licensee are kept in such a***
13 ***manner that the loss of sales of alcoholic beverages that the***
14 ***licensee would have suffered had the suspension gone into effect***
15 ***can be determined with reasonable accuracy therefrom.***

16 ~~The offer in compromise shall be the equivalent of 50 percent~~
17 ~~of the estimated gross sales of alcoholic beverages for each day of~~
18 ~~the proposed suspension, and the offer in compromise shall be not~~
19 ~~less than one thousand five hundred dollars (\$1,500) or more than~~
20 ~~six thousand dollars (\$6,000).~~

21 ~~(b) Notwithstanding any other provision of this division, the~~
22 ~~department may accept an~~

23 ~~(d) The offer in compromise from a retail licensee in for retail~~
24 ~~licensees shall be the equivalent of 50 percent of the estimated~~
25 ~~gross sales of alcoholic beverages for each day of a proposed~~
26 ~~suspension and the offer in compromise shall be not less than seven~~
27 ~~hundred fifty dollars (\$750) or more than three thousand dollars~~
28 ~~(\$3,000), provided the petitioning retailer has had no other~~
29 ~~accusation filed against him or her by the department during the~~
30 ~~prior three years from the date of the petition that has resulted in~~
31 ~~a final decision to suspend or revoke the retail license concerned,~~
32 ~~subject to the following limits:~~

33 ~~(1) The offer in compromise may not be less than seven hundred~~
34 ~~fifty dollars (\$750) nor more than three thousand dollars (\$3,000).~~

35 ~~(2) If the petitioning retailer has had any other accusation filed~~
36 ~~against him or her by the department during the three years prior~~
37 ~~to the date of the petition that has resulted in a final decision to~~
38 ~~suspend or revoke the retail license concerned, the offer in~~
39 ~~compromise may be not less than one thousand five hundred~~
40 ~~dollars (\$1,500) nor more than six thousand dollars (\$6,000).~~

(e) Notwithstanding subdivision (b), a licensee may petition the department for an offer in compromise for a second violation of Section 25658 that occurs within 36 months of the initial violation without regard to the period of suspension. In these cases, the offer in compromise shall be the equivalent of 50 percent of the estimated gross sales of alcoholic beverages for each day of the proposed suspension, and the offer in compromise may be not less than two thousand five hundred dollars (\$2,500) nor more than twenty thousand dollars (\$20,000).

~~(e)~~

(f) (1) ~~Notwithstanding the provisions of subdivision (a), the~~ The offer in compromise for nonretail licensees shall be the equivalent of 50 percent of the estimated gross sales of alcoholic beverages for each day of the proposed suspension, and the offer in compromise ~~shall be~~ may not be less than seven hundred fifty dollars (\$750) and ~~shall~~ may not exceed ten thousand dollars (\$10,000) unless the nonretail licensee has violated Section 25500, 25502, 25503, or 25600 by giving to any licensee illegal inducements, secret rebates, or free goods amounting to more than ten thousand dollars (\$10,000) in value, in which case the offer in compromise shall be equal to the value of the illegal inducements, secret rebates, or free goods given.

(2) Notwithstanding paragraph (1), any nonretail licensee who pays an offer in compromise based upon a violation in the exercise of any retail privileges of that license shall have the offer in compromise computed on estimated retail gross sales only pursuant to subdivision ~~(a) or (b)~~ (d).

(3) All moneys collected as a result of penalties imposed under this subdivision shall be deposited directly in the General Fund in the State Treasury, rather than the Alcohol Beverage Control Fund as provided for in Section 25761.

SEC. 8. Section 25658.1 of the Business and Professions Code is amended to read:

25658.1. (a) Notwithstanding any other provision of this division, no licensee may petition the department for an offer in compromise pursuant to Section 23095 for a ~~second~~ third or any subsequent violation of Section 25658 that occurs within 36 months of the initial violation.

(b) Notwithstanding Section 24200, the department may revoke a license for a third violation of Section 25658 that occurs

1 within any 36-month period. This provision shall not be construed
2 to limit the department's authority and discretion to revoke a
3 license prior to a third violation when the circumstances warrant
4 that penalty.

5 (c) For purposes of this section, no violation may be considered
6 for purposes of determination of the penalty until it has become
7 final.

8 *SEC. 8.5. Section 3294.5 is added to the Civil Code, to read:*

9 *3294.5. (a) The Legislature finds and declares that*
10 *extraordinary and dire budgetary needs have forced the enactment*
11 *of this extraordinary measure to allocate temporarily for the state's*
12 *Public Benefit Trust Fund a substantial portion of any punitive*
13 *damages paid from a judgment during the limited time period*
14 *specified in the statute. The Legislature further finds and declares*
15 *that this uniquely extraordinary legislative action shall not be*
16 *construed or interpreted in any way to establish any policy,*
17 *precedent, presumption, or inference in any case or in any other*
18 *setting, including future legislatures, regarding the award of*
19 *punitive damages, its allocation, or the payment of attorney's fees*
20 *arising in connection therewith.*

21 *(b) Punitive damages awarded pursuant to a final judgment*
22 *shall be paid, as follows:*

23 *(1) Seventy-five percent shall be paid to the Public Benefit*
24 *Trust Fund, which is hereby created in the State Treasury, to be*
25 *administered by the Department of Finance. Amounts deposited*
26 *into the Public Benefit Trust Fund shall be available for annual*
27 *appropriation in the Budget Act and shall be used for purposes*
28 *consistent with the nature of the award, but in no case shall be used*
29 *to fund the courts or judicial programs. Amounts deposited in the*
30 *Public Benefit Trust Fund shall also be available for the purposes*
31 *specified in subdivision (d).*

32 *(2) Twenty-five percent to the plaintiff or plaintiffs.*

33 *(c) Upon a final judgment that includes punitive damages, after*
34 *payment of costs if any, to the plaintiff, the judgment debtor shall*
35 *do all of the following:*

36 *(1) Pay the Public Benefit Trust Fund's proportional share of*
37 *the punitive damages to the Director of the Department of Finance*
38 *for deposit in the Public Benefit Trust Fund.*

39 *(2) Pay to the plaintiff's attorney, the plaintiff's proportional*
40 *share of punitive damages.*

1 (3) Notify the plaintiff's attorney of the amount of punitive
2 damages paid to the Public Benefit Trust Fund.

3 (d) Upon deposit in the Public Benefit Trust Fund of proceeds
4 from a final judgment punitive damages award, the plaintiff's
5 attorney in the action giving rise to those proceeds shall be entitled
6 to 25 percent of the proceeds received by the fund from the punitive
7 damages award in that action. Notwithstanding Section 13340 of
8 the Government Code, the plaintiff's attorney's share of the
9 proceeds shall be continuously appropriated to pay those
10 attorney's fees, provided that any claim for payment by the
11 plaintiff's attorney shall be paid by the fund on July 1 of the next
12 fiscal year.

13 (e) The state shall not be a party in interest to, and shall not
14 intervene in, any action in which its sole interest is the potential
15 recovery of a portion of a punitive damages award under this
16 section. The state shall not file any amicus curiae brief regarding
17 the propriety of, or the amount of, any punitive damages award in
18 any action in which its sole interest is the potential recovery of a
19 portion of a punitive damages award under this section. The state's
20 sole right to the proceeds of a punitive damages award is as
21 provided in this section.

22 (f) Notwithstanding any other provision of law, any attorney's
23 fees paid to an attorney from the plaintiff's share of the award shall
24 be deemed to be the income of the attorney and not income to the
25 plaintiff for state and local taxation purposes.

26 (g) A jury shall not be informed that any portion of a punitive
27 damages award will be paid to a government fund, and no
28 argument or inference shall be made to a jury that a punitive
29 damages award would result in a windfall to the plaintiff or
30 plaintiffs. However, nothing in this section shall be construed to
31 affect a punitive damages award if a juror or jurors had
32 independent knowledge that a portion of a punitive damages
33 award will be paid to a government fund.

34 (h) This section shall only apply to actions filed after the
35 effective date of this section and finally adjudicated, including the
36 resolution of all mandatory or discretionary appeals, the
37 resolution of any motion for attorney's fees on appeal and any
38 appeals therefrom, and the issue of final remittitur, prior to the date
39 this section ceases to be operative.

1 (i) *This section shall remain in effect until July 1, 2006, and as*
2 *of that date is repealed, unless a later enacted statute extends or*
3 *deletes that date.*

4 SEC. 9. *Section 215 of the Code of Civil Procedure is amended*
5 *to read:*

6 215. (a) ~~Beginning~~ *Except as provided in subdivision (b), on*
7 *and after July 1, 2000, the fee for jurors in the superior court, in*
8 *civil and criminal cases, is fifteen dollars (\$15) a day for each day's*
9 *attendance as a juror after the first day.*

10 (b) ~~Jurors~~ *A juror who is employed by a federal, state, or local*
11 *government entity, or by any other public entity as defined in*
12 *Section 481.200, and who receives regular compensation and*
13 *benefits while performing jury service, may not be paid the fee*
14 *described in subdivision (a).*

15 (c) *All jurors in the superior court, in civil and criminal cases,*
16 *shall be reimbursed for mileage at the rate of thirty-four cents*
17 *(\$0.34) per mile for each mile actually traveled in attending court*
18 *as a juror after the first day, in going only.*

19 SEC. 10. *Section 405.20 of the Code of Civil Procedure is*
20 *amended to read:*

21 405.20. A party to an action who asserts a real property claim
22 may record a notice of pendency of action in which that real
23 property claim is alleged. The notice ~~shall~~ *may* be recorded in the
24 office of the recorder of each county in which all or part of the real
25 property is situated. The notice shall contain the names of all
26 parties to the action and a description of the property affected by
27 the action.

28 SEC. 11. *Section 405.22 of the Code of Civil Procedure is*
29 *amended to read:*

30 405.22. Except in actions subject to Section 405.6, the
31 claimant shall, prior to recordation of the notice, cause a copy of
32 the notice to be mailed, by registered or certified mail, return
33 receipt requested, to all known addresses of the parties to whom
34 the real property claim is adverse and to all owners of record of the
35 real property affected by the real property claim as shown by the
36 latest county assessment roll. If there is no known address for
37 service on an adverse party or owner, then as to that party or owner
38 a declaration under penalty of perjury to that effect ~~shall~~ *may* be
39 recorded instead of the proof of service required above, and the
40 service on that party or owner shall not be required. Immediately

following recordation, a copy of the notice shall also be filed with the court in which the action is pending. Service shall also be made immediately and in the same manner upon each adverse party later joined in the action.

SEC. 12. Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 17537.3, 22445, 22446.5, 22958, ~~or~~ 22962, *or* 22963 of the Business and Professions Code, Section 52, 52.1, ~~or~~ ~~55~~ 55.1, *or* 3494 of the Civil Code, *the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code or the California Commodity Law of 1990 (Division 4.5 (commencing with Section 29500) of Title 4 of the Corporations Code)*, Section ~~1603.1~~ 1615, 2014, or 5650.1 of the Fish and Game Code, Section 4458, 12606, 12607, 12598, 12989.3, 16147, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, 39674, 41513, 42402, 42402.1, 42402.2, 42402.3, 42402.4, 43016, 43017, 43154, 104557, or 118950 of the Health and Safety Code, Section 308.1 or 308.3 of the Penal Code, Section 2774.1, 4601.1, 4603, 4605, 30820, 30821.6, or 30822 of the Public Resources Code, *Section 30101.7 of the Revenue and Taxation Code*, or Section 275, 1052, 1845, 13261, 13262, 13264, 13265, 13268, 13304, 13331, 13350, ~~or~~ 13385, 42847, *or* 48023 of the Water Code, the court shall award to the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards under this section shall be paid to the Public Rights Law Enforcement Special Fund established by Section 12530 of the Government Code.

(b) This section applies to any action pending on the effective date of this section and to any actions filed thereafter.

(c) *The amendments made to this section by the act adding this subdivision shall apply to any action pending on the effective date of these amendments and to any actions filed thereafter.*

SEC. 13. Section 1502 of the Code of Civil Procedure is amended to read:

1502. (a) This chapter does not apply to *either of the following*:

(1) Any property in the official custody of a municipal utility district.

(2) Any property in the official custody of a local agency if such property may be transferred to the general fund of such agency under the provisions of Sections 50050-50053 of the Government Code.

~~(3) Any instrument issued in a foreign country.~~

~~(4) Any funds held only in a foreign country.~~

(b) None of the provisions of this chapter applies to any type of property received by the state under the provisions of Chapter 1 (commencing with Section 1300) to Chapter 6 (commencing with Section 1440), inclusive, of this title.

SEC. 14. Section 1502.5 of the Corporations Code is amended to read:

1502.5. The Victims of Corporate Fraud Compensation Fund is hereby established in the State Treasury. The fund shall be administered by the Secretary of State who shall adopt regulations regarding the administration of the fund and the eligibility of victims to receive compensation from the fund. The ~~revenue~~ money in the fund shall be used for the sole purpose of providing restitution to the victims of a corporate fraud. *Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the Secretary of State for the purposes authorized by this section.*

SEC. 15. Article 20.5 (commencing with Section 69999.6) is added to Chapter 2 of Part 42 of the Education Code, to read:

*Article 20.5. Management and Disbursement of Funds
Previously Set Aside for Repealed Governor's Scholarship
Programs*

69999.6. (a) *In enacting this article, it is the intent of the Legislature to accomplish both of the following:*

(1) *Provide explicit authority to the board to continue to administer accounts for, and make awards to, persons who qualified for awards under the provisions of the Governor's Scholarship Programs as those provisions existed on January 1, 2003, prior to the repeal of former Article 20 (commencing with Section 69995).*

(2) *Provide for the management and disbursement of funds previously set aside for the scholarship programs authorized by former Article 20 (commencing with Section 69995).*

(b) The board may manage and disburse the funds previously set aside for the scholarship programs authorized by former Article 20 (commencing with Section 69995).

(c) If a person has earned an award under the Governor's Scholarship Programs on or before January 1, 2003, but has not claimed the award on or before June 30, 2004, he or she still may claim the award by a date that is five years from the first June 30 that fell after he or she took the qualifying test. An award shall not be made by the Scholarshare Investment Board after that date.

(d) The board may adopt rules and regulations for the implementation of this article.

69999.7. (a) Notwithstanding any other provision of law, not later than 30 days after enactment of the Budget Act of 2004, the Scholarshare Investment Board shall transfer from the Golden State Scholarshare Trust to the General Fund the lesser of (1) fifty million dollars (\$50,000,000) or (2) the balance resulting from unclaimed awards in the Golden State Scholarshare Trust that exceeds five million dollars (\$5,000,000) as of the close of business on the business day preceding the transfer.

(b) The amount remaining in the Golden State Scholarshare Trust after the transfer required by subdivision (a) shall be available as a reserve for funding claims for these awards. If claims for these awards exceed four million dollars (\$4,000,000) of the reserve established by this act in the Golden State Scholarshare Trust, the Scholarshare Investment Board shall notify the Controller of the amount of any shortfall of funds for the payment of claims, and the Controller shall transfer an amount of money equal to the shortfall from the General Fund to the Golden State Scholarshare Trust.

69999.8. As used in this article:

(a) "Board" means the Scholarshare Investment Board established pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 69984.

(b) "Former Article 20" means former Article 20 (commencing with Section 69995) of Chapter 2 of Part 42 of the Education Code, as it read on January 1, 2003.

SEC. 16. Section 10404.5 of the Elections Code is amended to read:

10404.5. (a) A resolution of the governing board of a school district or county board of education to establish an election day

1 pursuant to subdivision (b) of Section 1302 shall be adopted and
2 submitted to the board of supervisors not later than 240 days prior
3 to the date of the currently scheduled election of the district or for
4 the members of the county board of education.

5 (b) The final date for the submission of the resolution by the
6 governing board *of a school district* or county board of education
7 to the board of supervisors is not subject to waiver.

8 (c) The board of supervisors shall notify all school districts and
9 the county board of education located in the county of the receipt
10 of the resolution to consolidate and shall request input from each
11 district on the effect of consolidation.

12 (d) (1) The board of supervisors, within 60 days from the date
13 of submission, shall approve the resolution unless it finds that the
14 ballot style, voting equipment, or computer capacity is such that
15 additional elections or materials cannot be handled. Prior to the
16 adoption of a resolution to either approve or deny a consolidation
17 request, the board or boards of supervisors ~~shall~~ *may* obtain from
18 the elections official a report on the cost-effectiveness of the
19 proposed action.

20 (2) Public notices of the proceedings in which the resolution is
21 to be considered for adoption shall be made pursuant to Section
22 25151 of the Government Code.

23 (e) Within 30 days after the approval of the resolution by the
24 board of supervisors, the elections official shall notify all
25 registered voters of the districts affected by the consolidation of
26 the approval of the resolution by the board of supervisors. The
27 notice shall be delivered by mail and at the expense of the school
28 district or if applicable, the county board of education.

29 (f) An election day established pursuant to subdivision (b) of
30 Section 1302 shall be prescribed to occur not less than one month,
31 nor more than 12 months, subsequent to the election day
32 prescribed in Section 5000 of the Education Code or pursuant to
33 Section 1007 of the Education Code, as appropriate. As used in this
34 subdivision, “12 months” means the period from the election day
35 prescribed in Section 5000 of the Education Code or pursuant to
36 Section 1007 of the Education Code, as appropriate, to the first
37 Tuesday after the first Monday in the 12th month subsequent to
38 that day, inclusive.

39 (g) In the event that the election day for a school district
40 governing board or county board of education is established



pursuant to subdivision (b) of Section 1302, the term of office of all then incumbent members of that governing board or county board of education shall be extended accordingly.

SEC. 17. Section 10405.7 of the Elections Code is amended to read:

10405.7. (a) The resolution of the community college district governing board to establish an election day pursuant to subdivision (b) of Section 1302 shall be adopted and submitted to the board of supervisors not later than 240 days prior to the date of the currently scheduled election for the governing board members of the community college district.

(b) The final date for the submission of the resolution by the community college district governing board to the board of supervisors is not subject to waiver.

(c) The board of supervisors shall notify all community college districts located in the county of the receipts of the resolution to consolidate and shall request input from each district on the effect of consolidation.

(d) (1) The board of supervisors, within 60 days from the date of submission, shall approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled. Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors ~~shall~~ may each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) Public notices of the proceedings in which the resolution is to be considered for adoption shall be made pursuant to Section 25151 of the Government Code.

(e) Within 30 days after the approval of the resolution by the board of supervisors, the elections official shall notify all registered voters of the districts affected by the consolidation of the approval of the resolution by the board of supervisors. The notice shall be delivered by mail and at the expense of the community college district.

(f) An election day established pursuant to subdivision (b) of Section 1302 shall be prescribed to occur not less than one month, nor more than 12 months, subsequent to the election day prescribed in Section 5000. As used in this subdivision, “12 months” means the period from the election day prescribed in

1 Section 5000 of the Education Code to the first Tuesday after the
2 first Monday in the 12th month subsequent to that day, inclusive.

3 (g) If, pursuant to subdivision (b) of Section 1302, a district
4 governing board member election is held on the same day as a
5 statewide general election, those district governing board
6 members whose four-year terms of office would have, prior to the
7 adoption of the resolution, expired prior to that election shall,
8 instead, continue in their offices until successors are elected and
9 qualified.

10 *SEC. 18. Section 221.1 is added to the Food and Agricultural*
11 *Code, to read:*

12 *221.1. (a) Notwithstanding Section 221, the department*
13 *shall establish all permanent positions with the Controller's office,*
14 *pursuant to standard state administrative practices.*

15 *(b) The department shall report to the chairs of the fiscal*
16 *committees of the Legislature and to the Legislative Analyst's*
17 *office on or before January 10, 2005, on the positions established*
18 *pursuant to subdivision (a) that have been funded by the*
19 *department's general authority. The report shall include a*
20 *description of the positions by program, classification, and source*
21 *of funding, as well as a complete description of the workload for*
22 *the positions.*

23 *SEC. 19. Section 905.2 of the Government Code is amended*
24 *to read:*

25 *905.2. (a) There shall be presented in accordance with*
26 *Chapter 1 (commencing with Section 900) and Chapter 2*
27 *(commencing with Section 910) of this part all claims for money*
28 *or damages against the state:*

29 ~~(a)–~~

30 *(1) For which no appropriation has been made or for which no*
31 *fund is available but the settlement of which has been provided for*
32 *by statute or constitutional provision.*

33 ~~(b)–~~

34 *(2) For which the appropriation made or fund designated is*
35 *exhausted.*

36 ~~(c)–~~

37 *(3) For money or damages–(1) on express contract, or–(2) for an*
38 *injury for which the state is liable.*

39 ~~(d)–~~

(4) For which settlement is not otherwise provided for by statute or constitutional provision.

(b) Claimants shall pay a filing fee of twenty-five dollars (\$25) for filing a claim described in subdivision (a) with the Victim Compensation and Government Claims Board. This fee shall be deposited into the General Fund and may be appropriated in support of the board as reimbursements to Item 8700-001-0001 of the annual Budget Act.

(1) The fee shall not apply to persons who have applied for and been granted permission to proceed as litigants in forma pauperis in accordance with Section 68511.3 and applicable rules of court governing proceedings in forma pauperis.

(2) Upon approval of the claim by the Victim Compensation and Government Claims Board, the fee shall be reimbursed to the claimant. Reimbursement of the filing fee shall be paid by the state entity against which the approved claim was filed. The reimbursement shall be made at the time the claim is paid by the state entity, or shall be added to the amount appropriated for the claim in an equity claims bill.

(c) The board may assess a surcharge in an amount not to exceed 15 percent of the total approved claim. The board shall not include the refunded filing fee in the surcharge calculation. This surcharge shall be deposited into the General Fund and may be appropriated in support of the board as reimbursements to Item 8700-001-0001 of the annual Budget Act.

(d) The filing fee required by subdivision (a) shall apply to all claims filed after June 30, 2004, or the effective date of this statute. The surcharge authorized by subdivision (c) may be calculated and included in claims paid after June 30, 2004, or the effective date of the statute adding this subdivision.

SEC. 20. Section 910.4 of the Government Code is amended to read:

910.4. ~~(a)~~—The board shall provide forms specifying the information to be contained in claims against the ~~public entity~~ state. The person presenting a claim shall use the form in order that his or her claim is deemed in conformity with Sections 910 and 910.2. A claim may be returned to the person if it was not presented using the form. Any claim returned to a person may be resubmitted using the appropriate form.

~~(b) The amendments made to this section by the act adding this subdivision shall become operative six months after the date that act takes effect.~~

SEC. 21. Section 910.8 of the Government Code is amended to read:

910.8. If in the opinion of the board or the person designated by it a claim as presented fails to comply substantially with the requirements of Sections 910 and 910.2, or with the requirements of a form provided under Section 910.4 if a claim is presented pursuant thereto, *or if the claim is submitted without a filing fee when required pursuant to subdivision (b) of Section 905.2*, the board or ~~such~~ the person may, at any time within 20 days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein. ~~Such~~ The notice shall be given in the manner prescribed by Section 915.4. The board may not take action on the claim for a period of 15 days after ~~such~~ the notice is given.

SEC. 22. Section 911 of the Government Code is amended to read:

911. Any defense as to the sufficiency of the claim based upon a defect or omission in the claim as presented is waived by failure to give notice of insufficiency with respect to ~~such~~ the defect or omission as provided in Section 910.8, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant, *or fails to include the filing fee.*

SEC. 23. Section 8690.6 is added to the Government Code, to read:

8690.6. (a) *The Disaster Response-Emergency Operations Account is hereby established in the Special Fund for Economic Uncertainties. Notwithstanding Section 13340, moneys in the account are continuously appropriated, subject to the limitations specified in subdivisions (c) and (d), without regard to fiscal years, for allocation by the Director of Finance to state agencies for disaster response operation costs incurred by state agencies as a result of a proclamation by the Governor of a state of emergency, as defined in subdivision (b) of Section 8558. These allocations may be for activities that occur within 120 days after a proclamation of emergency by the Governor.*

1 ***(b) It is the intent of the Legislature that the Disaster***
2 ***Response-Emergency Operations Account have an unencumbered***
3 ***balance of one million dollars (\$1,000,000) at the beginning of***
4 ***each fiscal year. In the event that this account requires additional***
5 ***moneys to meet claims against the account, the Director of***
6 ***Finance may transfer moneys from the Special Fund for Economic***
7 ***Uncertainties to the account in an amount sufficient to pay the***
8 ***amount of the claims that exceed the unencumbered balance in the***
9 ***account.***

10 ***(c) Funds shall be allocated from the account subject to the***
11 ***conditions of this section and upon notification by the Director of***
12 ***Finance to the chairperson of the Joint Legislative Budget***
13 ***Committee and the chairpersons of the fiscal committees in each***
14 ***house.***

15 ***(d) Notwithstanding any other provision of law, authorizations***
16 ***for acquisitions, relocations, and environmental mitigations***
17 ***related to activities, as described in subdivision (a), shall be***
18 ***authorized pursuant to this section. However, these funds may only***
19 ***be authorized for needs that are a direct consequence of the***
20 ***proclaimed emergency where failure to undertake the project may***
21 ***interrupt essential state services or jeopardize public health or***
22 ***safety. In addition, any acquisition accomplished under this***
23 ***subdivision shall comply with any otherwise applicable law,***
24 ***except as provided in the first sentence of this subdivision.***

25 ***(e) No funds allocated under this section shall be used to***
26 ***supplant federal funds otherwise available in the absence of state***
27 ***financial relief.***

28 ***(f) The amount of financial assistance provided to an***
29 ***individual, business, or governmental entity under this section, or***
30 ***pursuant to any other program of state-funded disaster assistance,***
31 ***shall be deducted from sums received in payment of damage claims***
32 ***asserted against the state, its agents, or employees, for causing or***
33 ***contributing to the effects of the proclaimed disaster.***

34 ***(g) No public entity administering disaster assistance to***
35 ***individuals shall receive funds under this section unless it***
36 ***administers that assistance pursuant to the following criteria:***

37 ***(1) All applications, forms, and other written materials***
38 ***presented to persons seeking assistance shall be available in***
39 ***English and in the same language as that used by the major***
40 ***non-English-speaking group within the disaster area.***

1 (2) *Bilingual staff who reflect the demographics of the disaster*
2 *area shall be available to applicants.*

3 (h) *This section shall remain in effect only until January 1,*
4 *2006, and as of that date is repealed, unless a later enacted statute,*
5 *that is enacted before January 1, 2006, deletes or extends that date.*

6 *SEC. 24. Section 11006 of the Government Code is repealed.*

7 ~~11006. The Director of Finance may, in writing, authorize the~~
8 ~~creation of deficiencies in any appropriation of money made by~~
9 ~~law in cases of actual necessity and shall authorize the payment of~~
10 ~~deficiencies out of any money which may be appropriated for these~~
11 ~~purposes. No deficiency shall be authorized except upon the~~
12 ~~written authority, first obtained, as provided in this section. Any~~
13 ~~indebtedness attempted to be created against the state in violation~~
14 ~~of this section is void, and shall not be allowed by the director or~~
15 ~~the Controller.~~

16 *SEC. 25. Section 11011 of the Government Code is amended*
17 *to read:*

18 11011. (a) On or before December 31st of each year, each
19 state agency shall make a review of all proprietary state lands
20 ~~(other, other~~ than tax-deeded land, land held for highway
21 purposes, lands under the jurisdiction of the State Lands
22 Commission, land ~~which~~ that has escheated to the state or ~~which~~
23 that has been distributed to the state by court decree in estates of
24 deceased persons, and lands under the jurisdiction of the State
25 Coastal Conservancy) Conservancy, over which it has jurisdiction
26 to determine what, if any, land is in excess of its foreseeable needs
27 and report thereon in writing to the Department of General
28 Services. These lands shall include, but not be limited to, the
29 following:

30 (1) Land not currently being utilized, or currently being
31 underutilized, by the state agency for any existing or ongoing state
32 program.

33 (2) Land for which the state agency has not identified any
34 specific utilization relative to future programmatic needs.

35 (3) Land not identified by the state agency within its master
36 plans for facility development.

37 (b) Jurisdiction of all land reported as excess shall be
38 transferred to the Department of General Services, when requested
39 by the director thereof, for sale or disposition under this section or
40 as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of the Government Code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies ~~which~~ *that* are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state ~~which~~ *that* involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other provision of law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) Except as otherwise specified by law, moneys received from any property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the General Fund.

For purposes of this section, net proceeds shall be defined as gross proceeds less all costs directly related to the completion of the transaction including, but not limited to, selling costs, transfer fees, commissions, and costs incurred by the Department of General Services.

(h) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the General Fund in the account established by Section 15863. Any expenditures required to maintain, repair, care for, and sell this real property shall be paid from the appropriation made by Section 15863.

(i) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

(j) *This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.*

SEC. 26. *Section 11011.1 of the Government Code is amended to read:*

11011.1. (a) Land that has been declared surplus by the Legislature, pursuant to Section 11011, and is not needed by any state agency shall be offered to local governmental agencies. Except as authorized in subdivisions (b), (c), (d), (e), and (k), or any combination thereof, transfers of surplus land to local governmental agencies pursuant to this section shall be at fair market value. No surplus land shall be sold for less than fair market value, however, to any person or agency, whether public or private, unless the contract for sale provides for the reversion of the land to the state if the stated purpose for which the property is sold is not achieved.

(b) Where the land is to be used for park and recreation purposes and operated for those purposes by local agencies at no expense to the state, the Director of General Services with the approval of the State Public Works Board may, notwithstanding

1 any provision in Section 11011, transfer the land to local
2 governmental agencies at less than the fair market value of the
3 land, if the transfer is in the public interest, under the following
4 conditions:

5 (1) The local public agency has submitted a general
6 development plan for the property ~~which~~ *that* conforms to the
7 agency's general plan pursuant to Article 5 (commencing with
8 Section 65300) of Chapter 3 of Title 7, and which general
9 development plan has been approved by the Director of Parks and
10 Recreation.

11 (2) The land shall be developed according to plan within a time
12 period determined by the state but not to exceed 10 years. The deed
13 or other instrument of transfer shall provide that the land shall
14 revert to the state if the land is not developed within the time period
15 so determined by the state.

16 (3) The deed or other instrument of transfer shall provide that
17 the land would revert to the state if the use changed to a use not
18 consistent with parks and recreation purposes during the period of
19 25 years following the sale.

20 (c) Where the land is to be used for open-space purposes, as
21 defined herein, and operated by local agencies at no expense to the
22 state, the Director of General Services with the approval of the
23 State Public Works Board may transfer the land to local
24 governmental agencies at fair market value of the land or at any
25 lesser value of the land under any of the following conditions:

26 (1) The local public agency has submitted a plan for the use of
27 the property ~~which~~ *that* conforms to the agency's general plan
28 pursuant to Article 5 (commencing with Section 65300) of
29 Chapter 3 of Title 7, and which plan has been approved by the
30 Director of Parks and Recreation.

31 (2) The land shall be used according to plan within a time
32 period determined by the state but not to exceed 10 years.

33 (3) The deed or other instrument of transfer shall provide that
34 the land would revert to the state if the use changed to a use not
35 consistent with open-space purposes during the period of 25 years
36 following the sale.

37 (4) For the purpose of this subdivision, "open-space purpose"
38 means the use of land for public recreation, enjoyment of scenic
39 beauty, or conservation or use of natural resources.

1 (d) Where the land is suitable to be used for the purpose of
2 providing housing for persons and families of low or moderate
3 income, as defined in Section 50093 of the Health and Safety
4 Code, the Director of General Services, with the approval of the
5 State Public Works Board, may offer the land to local agencies
6 within whose jurisdiction the land is located. Provided, however,
7 if the state has held title to the land for seven years or less and the
8 land is not used for the purposes for which it was acquired, and the
9 land is declared surplus land and is not needed by any other state
10 agency pursuant to the provisions of Section 11011, the state, prior
11 to offering the land to local agencies, shall extend to the individual
12 from whom the land was acquired an offer to purchase the land at
13 current fair market value. The offer shall extend for 60 days and
14 if not exercised within ~~such~~ *that* period shall be irrevocably
15 terminated. The land may be transferred to local agencies at a
16 reasonable cost ~~which~~ *that* will enable the provision of housing for
17 persons and families of low or moderate income. The cost may be
18 less than fair market value. The Department of Housing and
19 Community Development shall recommend to the Department of
20 General Services a cost ~~which~~ *that* will enable the provision of
21 housing for persons and families of low or moderate income. All
22 transfers of land pursuant to this subdivision shall be subject to the
23 following conditions:

24 (1) The local agency has made all of the following findings:

25 (A) There is a need for the housing in the community.

26 (B) The land is suitable for development of the housing.

27 (2) The local agency develops a plan for the housing in
28 accordance with criteria established by the Department of Housing
29 and Community Development, which shall include, but not be
30 limited to, criteria respecting the financial condition of the
31 developer, if the housing is to be developed by a private sponsor,
32 and the cost of the project. The plan shall be approved by the
33 Department of Housing and Community Development.

34 (3) After transfer of the property from the state to the local
35 agency, the property shall be developed as housing for persons and
36 families of low or moderate income. The local agency may lease
37 or sell the property to any nonprofit corporation, housing
38 corporation, limited dividend housing corporation, or private
39 developer if the local agency determines a private entity is best
40 suited to develop housing for persons and families of low or



1 moderate income. In authorizing the private development, the
2 local agency shall impose reasonable terms and conditions as will
3 further the purposes of this subdivision, which shall include, but
4 not be limited to, continued use of the property for housing for
5 persons and families of low or moderate income for not less than
6 40 nor more than 55 years. A lessee or purchaser of land pursuant
7 to this subdivision shall agree to limitations on profit in the
8 operation of the property ~~which~~ that will benefit the public and
9 assure that the housing provided thereon is within the means of
10 persons and families of low or moderate income. The agreement
11 shall be binding upon successors in interest of the original lessee
12 or purchaser and shall inure to the benefit of, and be enforceable
13 by, the state.

14 (4) The local agency shall assure that the land will be used for
15 the purpose of providing low- or moderate-income housing and
16 shall not permit the use of the dwelling accommodations of the
17 project for any other purpose for not less than 40 nor more than 55
18 years, except as provided in this section.

19 In the event a local agency does not comply with the land use
20 requirements prescribed in this section, as determined by the
21 Department of General Services, the Department of General
22 Services may require that the local agency pay the state the
23 difference between the actual price paid by the local agency for the
24 property and the fair market value of the property, at the time of
25 the department's determination of noncompliance, plus 6 percent
26 interest on that amount for the period of time the land has been held
27 by the local agency.

28 If the local agency, with the approval of the Department of
29 General Services, and in consultation with the Department of
30 Housing and Community Development, determines that there is
31 no longer a need for low- or moderate-income housing within the
32 jurisdiction of the local agency and another valid public purpose
33 could be achieved by utilizing the land in an alternative manner,
34 the local agency shall not be required to make any payment to the
35 state for the difference between purchase price and fair market
36 value or interest charges for the period of time the land has been
37 held by the local agency.

38 (5) Failure to comply with the provisions of this section shall
39 not invalidate the transfer, sale, or conveyance of the real property
40 to a bona fide purchaser or encumbrancer for value.

1 (6) The project shall be commenced within 24 months of the
2 original transfer to the local agency. However, the Department of
3 General Services, in consultation with the Department of Housing
4 and Community Development, may for justifiable cause extend
5 the time for commencement of development for an additional 36
6 months. The aggregate time for commencing development shall
7 not exceed 60 months. The deed or other instrument of conveyance
8 shall specify that, if development has not commenced within that
9 time, the land shall revert to the Department of General Services
10 for disposal pursuant to this section or as otherwise authorized by
11 law.

12 (7) As used in this subdivision, “local agency” means and
13 includes any county, city, city and county, redevelopment agency
14 organized pursuant to Part 1 (commencing with Section 33000) of
15 Division 24 of the Health and Safety Code, or housing authority
16 organized pursuant to Part 2 (commencing with Section 34200) of
17 Division 24 of the Health and Safety Code, public district or other
18 political subdivision of the state and any instrumentality thereof,
19 which is authorized to engage in or assist in the development or
20 operation of housing for persons and families of low or moderate
21 income and also includes two or more of those agencies acting
22 jointly pursuant to Part 1 (commencing with Section 6500) of
23 Division 7 of this code.

24 (8) Up to 40 percent of the housing developed on land
25 purchased at below market value pursuant to this subdivision may
26 be housing ~~which~~ *that* is not regulated as to price, rent, or
27 eligibility of occupants only if the purchaser of the land
28 demonstrates that the proceeds from the sale or rental of ~~such~~ *that*
29 housing, in an amount equal to the difference between the fair
30 market value and the actual price paid for the land, is used to reduce
31 prices or rents on other housing units ~~which~~ *that* are made
32 available exclusively to persons and families of low and moderate
33 income.

34 (e) Where the land is suitable to be used for the purpose of
35 providing housing for persons and families of low or moderate
36 income, as defined in Section 50093 of the Health and Safety
37 Code, and provided no local agency has acquired or is in the
38 process of acquiring the land pursuant to subdivision (d), the
39 Director of General Services, with the approval of the State Public
40 Works Board, may lease or sell the land to a housing sponsor. The



land may be sold or leased at a reasonable cost ~~which~~ *that* may be less than fair market value. The Department of Housing and Community Development shall recommend to the Director of General Services a cost ~~which~~ *that* will enable the provision of housing for persons and families of low or moderate income. All transfers of land pursuant to this subdivision shall be subject to all of the following conditions:

(1) The housing sponsor has submitted a plan for the development of ~~such~~ *that* housing pursuant to criteria established by the Department of Housing and Community Development. The criteria shall include, but need not be limited to, standards with respect to the cost of the housing development and the proportion of the housing development to be occupied by persons and families of low and moderate income. Insofar as is practical, the plan shall provide for a mix of housing for all income groups.

(2) The housing development shall normally be developed or be under development within 24 months from the time of transfer or lease of the land to the housing sponsor. However, the Department of General Services, in consultation with the Department of Housing and Community Development, may, upon finding justifiable cause, extend the time for commencement of development for an additional period of 36 months. The aggregate of all extensions for commencement of development shall not exceed 60 months. The deed or other instrument of conveyance shall specify that if development has not commenced within ~~such~~ *that* time, the land shall revert to the Department of General Services for disposal pursuant to this section or as otherwise authorized by law.

(3) Transfer of title to the land or lease of the land to a housing sponsor shall be conditioned upon continued use of the property as housing for persons and families of low and moderate income for not less than 40 nor more than 55 years. In accordance with regulations ~~which~~ *that* shall be adopted by the Department of Housing and Community Development pursuant to the Administrative Procedure Act, the Director of General Services shall require that any housing sponsor purchasing or leasing land pursuant to this subdivision enter into an agreement ~~which~~ *that* (A) provides for limitations on profit in the operation of ~~such~~ *that* property ~~which~~ *that* benefit the public and which assure that the housing is affordable to persons and families of low and moderate

1 income, and (B) does not permit the use of the property for
2 purposes other than the provision of housing for persons and
3 families of low and moderate income except as provided in this
4 subdivision. Upon recordation of the agreement in the office of
5 county recorder in the county in which the real property subject to
6 the agreement is located, the agreement shall be binding for a
7 period of not less than 40 nor more than 55 years upon successors
8 in interest to the original housing sponsor and shall inure to the
9 benefit of, and be enforceable by, the state.

10 For the purposes of this subdivision, “housing sponsor” means
11 a nonprofit corporation incorporated pursuant to Part 1
12 (commencing with Section 9000) of Division 2 of Title 1 of the
13 Corporations Code; a cooperative housing corporation which is a
14 stock cooperative, as defined by Section 11003.2 of the Business
15 and Professions Code; a limited-dividend housing corporation; or
16 a private housing developer who agrees to the conditions set forth
17 in this subdivision.

18 (4) Up to 40 percent of the housing developed on land
19 purchased at below market value pursuant to this subdivision may
20 be housing which is not regulated as to price, rent, or eligibility of
21 occupants only if the purchaser of the land demonstrates that the
22 proceeds from the sale or rental of ~~such~~ that housing, in an amount
23 equal to the difference between the fair market value and the actual
24 price paid for the land, is used to reduce prices or rents on other
25 housing units which are made available exclusively to persons and
26 families of low and moderate income.

27 (f) The Department of Housing and Community Development,
28 in consultation with the Department of General Services and the
29 Office of Planning and Research, shall make a report to the
30 Legislature on or before January 1, 1981, with respect to
31 effectiveness of the program and shall recommend any necessary
32 legislative changes to the provisions of subdivision (d).

33 (g) Where the land is to be used for public purposes other than
34 specifically set forth in this section, is to be operated by the local
35 agency at no expense to the state, and the use and enjoyment of the
36 public purpose contemplated will be of broad public benefit, and
37 not a benefit basically of local interest enjoyed and used primarily
38 by the residents of the area of tax jurisdiction of the local agency,
39 the Director of General Services, with the approval of the State
40 Public Works Board, may transfer the land to local governmental

1 agencies at a sales price not less than 50 percent of fair market
2 value. The transfer shall provide that if the land is not used for the
3 contemplated purpose during the period of 25 years following the
4 sale, the land shall revert to the state. The Director of General
5 Services may provide additional terms and conditions which he or
6 she determines to be in the best interest of the state.

7 (h) If there is more than one appropriate use and more than one
8 offer for the use of a parcel of surplus land, the Department of
9 General Services, in consultation with the Department of Housing
10 and Community Development, the Department of Parks and
11 Recreation, and the Office of Planning and Research, shall
12 determine the most appropriate use for the parcel and the
13 Department of General Services shall offer the land accordingly.

14 (i) Land that has been declared surplus by the Legislature,
15 pursuant to Section 11011, is not needed by any state agency, is
16 suitable for development for housing purposes, and is not in the
17 process of being acquired pursuant to other provisions of this
18 section, may upon the request of the Department of Housing and
19 Community Development be retained by the Director of General
20 Services for a period not exceeding five years, during which the
21 Director of General Services shall continue to offer the lands for
22 housing pursuant to subdivision (d).

23 (j) Transfer of state surplus lands under subdivision (d) shall be
24 at a cost which will enable provision of economically feasible
25 housing for persons and families of low or moderate income.

26 (k) Where the land is to be used for school purposes, the
27 Director of General Services with the approval of the State Public
28 Works Board and the State Allocation Board may, notwithstanding
29 any provision in Section 11011, transfer the land to a local school
30 district at less than fair market value of the land, if the transfer is
31 in the public interest, under the following conditions:

32 (1) The land is suitable for use by a school district as a school
33 site, school administration building site, school warehouse site, or
34 other school use approved by the State Department of Education.

35 (2) The land is used by the school district for ~~such~~ *those*
36 purposes before a nonuse fee is required by Section 39015 of the
37 Education Code or ~~such~~ *a* later time ~~as is~~ approved by the State
38 Department of Education, with a reversion to the state if not so
39 used within the time prescribed.

(3) The deed or other instrument of transfer shall provide that the land shall revert to the state if the use is changed to a use not consistent with school purposes during the period of 25 years following the sale.

(1) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 27. Section 11011.2 of the Government Code is amended to read:

11011.2. (a) Any state agency ~~which~~ that owns real property requiring annual maintenance costing in excess of fifty thousand dollars (\$50,000), and ~~which~~ that declares ~~such~~ that property to be surplus, shall provide for its maintenance for a period of one year from the date notification is made to the Department of General Services to request the Legislature to declare ~~such~~ the property surplus, or until the property is sold. An agency may notify the Department of General Services to request the Legislature to declare property surplus while the property is still in use.

(b) This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.

SEC. 28. Section 11011.3 of the Government Code is amended to read:

11011.3. (a) Any public agency desiring to purchase surplus state real property, as set forth in Section 11011.1, shall give written notice to the Department of General Services of its intent to purchase ~~such~~ the real property within 60 days after receipt of the Department of General Services' written notification of intent to sell the ~~same~~ property.

(b) If the public agency desiring to purchase ~~such~~ the property and the Department of General Services are unable to arrive at a mutually acceptable sales price for the property within 180 days from the date of receipt of notice from the public agency, upon request of the public agency the Director of the Department of General Services shall hire an independent third party appraiser mutually acceptable to the agency and the department to appraise the property. If within 10 days after receipt of the appraisal the public agency and the department are unable to arrive at a mutually acceptable sales price, upon request of the agency final determination of the sales price shall be made by the State Public

Works Board. The public agency shall bear all costs of the independent third party appraisal whether or not the agency elects to purchase the property. If the agency does purchase the property, the appraisal costs shall be added to the purchase price of the property. If the public agency does not purchase the property, it shall pay the appraisal costs, and the surplus real property may be disposed of in the normal manner.

(c) After arriving at a mutually agreeable sales price, the Department of General Services and the public agency will be allowed an additional 90 days to execute a sales or exchange agreement to purchase ~~such~~ the property. In the event an agreement is not executed by the public agency within ~~such~~ the 90-day period, the Department of General Services may offer ~~such~~ the property for sale in the normal manner. Should 90 days prove insufficient for the public agency to finance purchase of the property, the Public Works Board for good cause may grant an extension of time to complete the purchase. The 90-day limitation shall be suspended when a bond election is to be held for the purpose of financing the purchase of ~~such~~ the property. However, the bond election shall be called and held on the next eligible date and this suspension of the 90-day limitation shall only be extended to the 10th day following the date of the next bond election.

(d) For purposes of this section, written notice shall be deemed given upon proper posting and deposit in the United States mail.

~~Nothing~~

(e) ~~Nothing~~ in this section shall prohibit the state from continuing to negotiate with a public agency for the sale of surplus property pursuant to other provisions of this article.

(f) *This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.*

SEC. 29. *Section 11011.4 of the Government Code is amended to read:*

11011.4. (a) Notwithstanding any provision to the contrary in Section 54222 or elsewhere, land may be transferred pursuant to subdivision (d) of Section 11011.1 to a local agency at the cost specified in subdivision (d) of Section 11011.1.

(b) *This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.*

1 *SEC. 30. Section 11011.5 of the Government Code is amended*
2 *to read:*

3 11011.5. (a) When no state or other public entity seeks to
4 obtain title to specific surplus state-owned real property, a state
5 agency authorized to sell that property, except property acquired
6 for state highway purposes, may, with the approval of the
7 Department of General Services, employ a licensed real estate
8 broker for a negotiated commission not to exceed reasonable and
9 customary brokerage commissions applicable to similar privately
10 owned properties in the area in connection with that sale and pay
11 the amount of commission earned by the broker. The commission
12 shall be paid only out of the proceeds of the sale before the
13 proceeds are remitted to the State Treasury. The Director of
14 General Services shall only employ the services of a broker when
15 the director determines that the employment of a broker to sell the
16 property would result in a cost savings to the state. Any state
17 properties sold through the services of a broker shall be reported,
18 along with a comparison of the estimated cost savings obtained
19 through the use of a broker, in the annual surplus property report
20 to the Legislature required pursuant to Section 11011.

21 (b) *This section shall be inoperative for the period commencing*
22 *with the effective date of the act that added this subdivision, until*
23 *July 1, 2005.*

24 *SEC. 31. Section 11011.6 of the Government Code is amended*
25 *to read:*

26 11011.6. (a) Notwithstanding any other ~~provisions~~ *provision*
27 of law, land held by the state and not needed by any state agency,
28 acquired at little or no cost from a local governmental agency or
29 private party, and where no significant amount of state funds have
30 been expended to preserve, improve, restore, or reclaim such
31 lands, and if it will be used by a governmental agency for a public
32 purpose of broad public benefit, and not a benefit basically of local
33 interest enjoyed and used primarily by the residents of the area of
34 tax jurisdiction of the agency, the Director of General Services,
35 with the approval of the State Public Works Board, upon
36 application by the agency or private party, may transfer the land
37 to the governmental agencies at no cost.

38 (b) *This section shall be inoperative for the period commencing*
39 *with the effective date of the act that added this subdivision, until*
40 *July 1, 2005.*

1 SEC. 32. *Section 11011.8 of the Government Code is amended*
2 *to read:*

3 11011.8. (a) Whenever any person, as defined in Section 17,
4 or public agency receives any state surplus real property at less
5 than current market value, it shall pay all interim management and
6 administrative costs incurred by the state between the time the
7 person or public agency expressed interest in obtaining the
8 property and the completion of the transfer and all costs incurred
9 by the state in transferring title to the property.

10 (b) This section does not apply to any transfer of surplus state
11 property that was authorized on or before January 1, 1989.

12 (c) *This section shall be inoperative for the period commencing*
13 *with the effective date of the act that added this subdivision, until*
14 *July 1, 2005.*

15 SEC. 33. *Section 11011.9 of the Government Code is amended*
16 *to read:*

17 11011.9. (a) The Legislature finds and declares that:

18 (1) Disposition of surplus property owned by public agencies
19 should be utilized to further state policies.

20 (2) There exists within the urban and rural areas of the state a
21 serious shortage of decent, safe, and sanitary housing which
22 persons and families of low or moderate income can afford, and
23 consequently there is a pressing and urgent need for the
24 preservation and expansion of the supply of housing for such
25 persons.

26 (3) The provision of decent housing for all Californians is a
27 state goal of the highest priority. The disposal of surplus land is a
28 direct and substantial public purpose of statewide concern and will
29 serve an important public purpose, including mitigating the
30 environmental effects of state activities. Therefore, it is the intent
31 of the Legislature that priority be given in the disposal of surplus
32 state land to housing for persons and families of low or moderate
33 income, where such land is suitable for housing and there is a need
34 for such housing in the community.

35 (4) There is an identifiable deficiency in the amount of
36 recreational land available to the public for park, recreational,
37 school, and open-space purposes, as well as for housing and
38 general community development purposes in accord with state
39 policies.

(b) It is the intent of the Legislature that surplus state property be disposed of in a manner which furthers state policies in the areas of parks, recreation, schools, open space, and housing and community development, or any combination thereof.

(c) *This section shall be inoperative for the period commencing with the effective date of the act that added this subdivision, until July 1, 2005.*

SEC. 34. *Section 11011.10 is added to the Government Code, to read:*

11011.10. (a) *Until July 1, 2005, the disposal of surplus state property, including any property already declared surplus by the Legislature but not yet disposed of by the Department of General Services, shall be subject to the requirements of this section.*

(b) *Notwithstanding any other provision of law, all state agencies, departments, boards, and commissions, who have not already done so pursuant to Executive Order S-10-04, shall review the current and anticipated future programmatic need for the state-owned and leased property that they occupy or have under their stewardship, and identify and report any property surplus to their current or future needs to the Department of General Services. The department may provide instructions to facilitate the reporting and determination of surplus properties.*

(c) (1) *The department shall review the properties identified pursuant to Executive order S-10-04 and subdivision (b) to determine whether those properties are surplus to the needs of the state, report the surplus properties to the Legislature, and request authorization from the Legislature to dispose of the properties by sale or otherwise.*

(2) *Any state agency with property under its jurisdiction that is determined to be surplus and authorized for disposition pursuant to this subdivision or by previous legislative action, shall provide for the maintenance of the property until it is disposed of by the department under this section.*

(3) *Jurisdiction of property determined to be surplus shall be transferred to the department, when requested by the Director of General Services, for sale or disposition under this section.*

(d) (1) *Subject to paragraphs (2) to (4), inclusive, the department may sell or otherwise dispose of property as authorized by the Legislature pursuant to subdivision (c), upon any terms and conditions and subject to any reservations and*

1 *exceptions the department deems to be in the best interests of the*
2 *state.*

3 (2) (A) *Notwithstanding any other provision of law, property*
4 *that has been declared surplus and whose disposition has been*
5 *authorized by the Legislature pursuant to subdivision (c) or by*
6 *previous legislative action, and has been determined by the*
7 *department not to be needed by any state agency, shall be offered*
8 *to local governmental agencies prior to being offered for sale to*
9 *private entities or individuals.*

10 (B) *In order to be considered as a potential buyer of the surplus*
11 *property, local governmental agencies shall notify the department*
12 *of their interest in the surplus state property within 60 days of*
13 *receiving notice of the availability of the property. The sale of the*
14 *property to a local governmental agency pursuant to this section*
15 *shall be completed, and title transferred, within 90 days of the date*
16 *the local governmental agency was notified of the availability of*
17 *the property.*

18 (3) *If the sale of a surplus state property to a local*
19 *governmental agency is not completed within the timeframe*
20 *specified in subparagraph (B) of paragraph (2), the department*
21 *shall offer the property for sale to private entities or individuals.*

22 (4) *Transfers of surplus property to local governmental*
23 *agencies or private entities or individuals pursuant to this*
24 *subdivision shall be at fair market value.*

25 (e) *Except as otherwise required by the California Constitution*
26 *or federal law, the net proceeds of any property disposition,*
27 *including the sale, lease, exchange, or other means, that is*
28 *received pursuant to this section shall be paid into the General*
29 *Fund. For purposes of this section, “net proceeds” means gross*
30 *proceeds less all costs directly related to the completion of the*
31 *transaction including, but not limited to, selling costs, transfer*
32 *fees, commissions, and costs incurred by the department.*

33 (f) *Except as otherwise required by the California Constitution*
34 *or federal law, any rental moneys or other revenues received by the*
35 *department from real properties, the jurisdiction of which has been*
36 *transferred to the department under this section, shall be deposited*
37 *in the General Fund in the account established by Section 15863.*
38 *Any expenditure required to maintain, repair, care for, and sell the*
39 *real property shall be paid from the appropriation made by Section*
40 *15863.*

(g) *This section shall become inoperative on July 1, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.*

SEC. 35. *Section 11794 of the Government Code is amended to read:*

11794. (a) (1) The Stephen P. Teale Data Center may establish rates and collect payments from state agencies for providing services to those agencies. The methodology for computing costs and billing rates shall be subject to the approval of the Director of Finance.

(2) *Commencing no later than August 1, 2005, and no later than August 1 annually thereafter, the Stephen P. Teale Data Center, or its successor entity, shall submit to the Department of Finance a proposal that reconciles the current fiscal year rates and details any adjustments proposed for budget fiscal year rates to be included in the Governor's Budget.*

(b) (1) All money received by the data center pursuant to this section shall be deposited in the Stephen P. Teale Data Center Revolving Fund.

(2) In order to ensure that there is adequate cash in the fund, the data center may require monthly payments in advance by client agencies, based on estimated billings. By mutual agreement between the data center and the applicable state agency, a state agency may make monthly, quarterly, or annual payments in advance or arrears.

(c) Consistent with subdivision (b), and pursuant to Section 11255, the Controller shall transfer any amounts so authorized by the data center. The data center shall notify each affected state agency upon requesting the Controller to make the transfer.

SEC. 36. *Section 12012.90 of the Government Code is amended to read:*

12012.90. (a) (1) For each fiscal year commencing with the 2002–03 fiscal year, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:

(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars (\$1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars (\$275,000) for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(2) For purposes of this section, “eligible recipient Indian tribe” means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution.

~~(b) Upon authorizing the final payment for each fiscal year from the Indian Gaming Revenue Sharing Trust Fund, the California Gambling Control Commission shall report the amount of the deficiency determined pursuant to subdivision (a) to the committee in the Senate and Assembly that considers the State Budget.~~

~~(c) The California Gambling Control Commission shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year.~~

(c) An eligible recipient Indian tribe may not receive an amount from the backfill appropriated following the estimate made pursuant to subdivision (b) that would give the eligible recipient Indian tribe an aggregate amount in excess of two hundred seventy-five thousand dollars (\$275,000) per eligible quarter. Any funds transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund that result in a surplus shall revert back to the Indian Gaming Special Distribution Fund following the authorization of the final payment of the fiscal year.

(d) Upon a transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust

1 Fund and appropriation from the trust fund, the California
2 Gambling Control Commission shall distribute the moneys
3 without delay to eligible recipient Indian tribes for each quarter
4 that a tribe was eligible to receive a distribution during the fiscal
5 year immediately preceding.

6 *SEC. 37. Section 12152 of the Government Code is amended*
7 *to read:*

8 12152. (a) To assist him or her in the discharge of the duties
9 of his or her office, the Secretary of State may appoint one
10 Assistant Secretary of State, whose powers, duties and liabilities
11 shall be those of a deputy, and any deputies and clerical, expert,
12 technical and other assistants necessary for the proper conduct of
13 his or her office. The Assistant Secretary of State and all deputies
14 are civil executive officers.

15 (b) Notwithstanding any other provision of law, but consistent
16 with Section 4 of Article VII of the California Constitution and
17 with subdivision (a) of this section, ~~two the Governor shall appoint~~
18 ~~four employees of the Secretary of State's office shall be appointed~~
19 ~~by the Governor and, who may be nominated by the Secretary of~~
20 ~~State, and who are exempt from state civil service.~~

21 *SEC. 38. Section 12432 is added to the Government Code, to*
22 *read:*

23 12432. (a) *The Legislature hereby finds and declares that it*
24 *is essential for the state to replace the current automated human*
25 *resource/payroll systems operated by the Controller to ensure that*
26 *state employees continue to be paid accurately and on time and*
27 *that the state may take advantage of new capabilities and improved*
28 *business practices. To achieve this replacement of the current*
29 *systems, the Controller is authorized to procure, modify, and*
30 *implement a new human resource management system that meets*
31 *the needs of a modern state government. This replacement effort*
32 *is known as the 21st Century Project.*

33 (b) *Notwithstanding any other provision of law, beginning with*
34 *the 2004–05 fiscal year, the Controller may assess the special and*
35 *nongovernmental cost funds in sufficient amounts to pay for the*
36 *authorized 21st Century Project costs that are attributable to those*
37 *funds. Assessments in support of the expenditures for the 21st*
38 *Century Project shall be made quarterly, and the total amount*
39 *assessed from these funds annually may not exceed the total*
40 *expenditures incurred by the Controller for the 21st Century*

1 *Project that are attributable to those funds in that fiscal year.*
2 *Appropriations for this purpose shall be made in the annual*
3 *Budget Act.*

4 *(c) To the extent permitted by law, beginning with the 2004–05*
5 *fiscal year, the Controller shall establish agreements with various*
6 *agencies and departments for the collection from federal funds of*
7 *costs that are attributable to federal funds. The total amount*
8 *collected from those agencies and departments annually may not*
9 *exceed the total expenditures incurred by the Controller for the*
10 *21st Century Project that are attributable to federal funds in that*
11 *fiscal year. Appropriations for that purpose shall be made in the*
12 *annual Budget Act.*

13 *(d) It is the intent of the Legislature that, beginning not earlier*
14 *than the 2006–07 fiscal year, future annual Budget Acts include*
15 *General Fund appropriations in sufficient amounts for*
16 *expenditures for the 21st Century Project that are attributable to*
17 *the General Fund. It is the Legislature’s intent that the share of the*
18 *total project costs paid for by the General Fund shall be equivalent*
19 *to the share of the total project costs paid for from special and*
20 *nongovernmental cost fund assessments and collections from*
21 *federal funds.*

22 *(e) This section shall remain in effect only until June 30, 2011,*
23 *and as of that date is repealed, unless a later enacted statute, that*
24 *is enacted before June 30, 2011, deletes or extends that date.*

25 *SEC. 39. Section 12439 of the Government Code is amended*
26 *to read:*

27 12439. (a) Beginning July 1, 2002, any state position that is
28 vacant for six consecutive monthly pay periods shall be abolished
29 by the Controller on the following July 1. The six consecutive
30 monthly pay periods may occur entirely within one fiscal year or
31 between two consecutive fiscal years.

32 (b) The Director of Finance may authorize the reestablishment
33 of any positions abolished pursuant to this section if one or more
34 of the following conditions existed during part or all of the six
35 consecutive monthly pay periods:

36 (1) There was a hiring freeze in effect during part or all of the
37 six consecutive pay periods.

38 (2) The department has diligently attempted to fill the position,
39 but was unable to complete all the steps necessary to fill the
40 position within six months.



(3) The position has been designated as a management position for purposes of collective bargaining and has been held vacant pending the appointment of the director, or other chief executive officer, of the department as part of the transition from one Governor to the succeeding Governor.

(4) The classification of the position is determined to be hard-to-fill.

(5) Late enactment of the budget causes the department to delay filling the position.

(c) The Controller shall reestablish any position for which the director of the department in which that position existed prior to abolishment certifies by August 15 that one or more of the following conditions existed during part or all of the six consecutive pay periods.

(1) The position is necessary for directly providing 24-hour care in an institution operated by the state.

(2) The position is necessary for the state to satisfy any licensing requirements adopted by a local, state, or federal licensing or other regulatory agency.

(3) The position is directly involved in services for public health, public safety, or homeland security.

(4) The position is being held vacant because the previous incumbent is eligible to exercise a mandatory right of return from a leave of absence as may be required by any provision of law including, but not limited to, leaves for industrial disability, nonindustrial disability, military service, pregnancy, childbirth, or care of a newborn infant.

(5) The position is being held vacant because the department has granted the previous incumbent a permissive leave of absence as may be authorized by any provision of law including, but not limited to, leaves for adoption of a child, education, civilian military work, or to assume a temporary assignment in another agency.

(6) Elimination of the position will directly reduce state revenues or other income by more than would be saved by elimination of the position.

(7) *The position is funded entirely from moneys appropriated pursuant to Section 221 of the Food and Agricultural Code, was established with the Controller pursuant to Section 221.1 of the Food and Agricultural Code, and directly responds to unforeseen*

1 *agricultural circumstances requiring the relative expertise that the*
2 *position provides.*

3 (d) Each department shall maintain for future independent
4 audit all records on which the department relied in determining
5 that any position or positions satisfied one or more of the criteria
6 specified in paragraphs (1) to (6), inclusive, of subdivision (c).

7 (e) The only other exceptions to the abolishment required by
8 subdivision (a) are those positions exempt from civil service or
9 those instructional and instruction-related positions authorized for
10 the California State University. No money appropriated by the
11 subsequent Budget Act shall be used to pay the salary of any
12 otherwise authorized state position that is abolished pursuant to
13 this section.

14 (f) The Controller, no later than September 10 of each fiscal
15 year, shall furnish the Department of Finance in writing a
16 preliminary report of any authorized state positions that were
17 abolished effective on the preceding July 1 pursuant to this section.

18 (g) The Controller, no later than October 15 of each fiscal year,
19 shall furnish the Joint Legislative Budget Committee and the
20 Department of Finance a final report on all positions that were
21 abolished effective on the preceding July 1.

22 (h) Departments shall not execute any personnel transactions
23 for the purpose of circumventing the provisions of this section.

24 (i) Each department shall include a section discussing its
25 compliance with this section when it prepares its report pursuant
26 to Section 13405.

27 (j) As used in this section, department refers to any department,
28 agency, board, commission, or other organizational unit of state
29 government that is empowered to appoint persons to civil service
30 positions.

31 (k) This section shall become operative July 1, 2002.

32 *SEC. 40. Section 12715 of the Government Code is amended*
33 *to read:*

34 12715. (a) The Controller, acting in consultation with the
35 California Gambling Control Commission, shall divide the
36 County Tribal Casino Account for each county that has gaming
37 devices that are subject to an obligation to make contributions to
38 the Indian Gaming Special Distribution Fund into a separate
39 account for each tribe that operates a casino within the county.
40 These accounts shall be known as Individual Tribal Casino

1 Accounts, and funds may be released from these accounts to make
2 grants selected by an Indian Gaming Local Community Benefit
3 Committee pursuant to the method established by this section to
4 local jurisdictions impacted by tribal casinos. Each Individual
5 Tribal Casino Account shall be funded in proportion to the amount
6 that each individual tribe paid in the prior fiscal year to the Indian
7 Gaming Special Distribution Fund.

8 (b) (1) There is hereby created in each county in which Indian
9 gaming is conducted an Indian Gaming Local Community Benefit
10 Committee. The selection of all grants from each Individual Tribal
11 Casino Account or County Tribal Casino Account shall be made
12 by each county's Indian Gaming Local Community Benefit
13 Committee. In selecting grants, the Indian Gaming Local
14 Community Benefit Committee shall follow the priorities
15 established in subdivision (g). This committee has the following
16 additional responsibilities:

17 (A) Establishing all application policies and procedures for
18 grants from the Individual Tribal Casino Account or County Tribal
19 Casino Account.

20 (B) Assessing the eligibility of applications for grants from
21 local jurisdictions impacted by tribal gaming operations.

22 (C) Determining the appropriate amount for reimbursement
23 from the aggregate county tribal account of the demonstrated costs
24 incurred by the county for administering the grant programs. The
25 reimbursement for county administrative costs may not exceed 2
26 percent of the aggregate county tribal account in any given fiscal
27 year.

28 (2) The Indian Gaming Local Community Benefit Committee
29 shall be composed of seven representatives, consisting of the
30 following:

31 (A) Two representatives from the county, selected by the
32 county board of supervisors.

33 (B) Three elected representatives from cities located within
34 four miles of a tribal casino in the county, selected by the county
35 board of supervisors. In the event that there are no cities located
36 within four miles of a tribal casino in the county, other local
37 representatives may be selected upon mutual agreement by the
38 county board of supervisors and a majority of the tribes paying into
39 the Indian Gaming Special Distribution Fund in the county. When
40 there are no cities within four miles of a tribal casino in the county,

1 and when the Indian Gaming Local Community Benefit
2 Committee acts on behalf of a county where no tribes pay into the
3 Indian Gaming Special Distribution Fund, other local
4 representatives may be selected upon mutual agreement by the
5 county board of supervisors and a majority of the tribes operating
6 casinos in the county.

7 (C) Two representatives selected upon the recommendation of
8 a majority of the tribes paying into the Indian Gaming Special
9 Distribution Fund in each county. When an Indian Gaming Local
10 Community Benefit Committee acts on behalf of a county where
11 no tribes pay into the Indian Gaming Special Distribution Fund,
12 the two representatives may be selected upon the recommendation
13 of the tribes operating casinos in the county.

14 (c) Sixty percent of each individual tribal casino account shall
15 be available for nexus grants on a yearly basis to cities and counties
16 impacted by tribes that are paying into the Indian Gaming Special
17 Distribution Fund, according to the four-part nexus test described
18 in paragraph (1). Grant awards shall be selected by each county's
19 Indian Gaming Local Community Benefit Committee and shall be
20 administered by the county. Grants may be awarded on a multiyear
21 basis, and these multiyear grants shall be accounted for in the grant
22 process for each year.

23 (1) A nexus test based on the geographical proximity of a local
24 government jurisdiction to an individual ~~tribal~~ Indian land upon
25 which a tribal casino is located shall be used by each county's
26 Indian Gaming Local Community Benefit Committee to
27 determine relative priority for grants, using the following criteria:

28 (A) Whether the local government jurisdiction borders the
29 ~~tribal~~ Indian lands on all sides.

30 (B) Whether the local government jurisdiction partially
31 borders ~~tribal~~ Indian lands.

32 (C) Whether the local government jurisdiction maintains a
33 highway, road, or other thoroughfare that is the predominant
34 access route to a casino that is located within four miles.

35 (D) Whether all or a portion of the local government
36 jurisdiction is located within four miles of a casino.

37 (2) Fifty percent of the amount specified in subdivision (c)
38 shall be awarded in equal proportions to local government
39 jurisdictions that meet all four of the nexus test criteria in
40 paragraph (1). If no eligible local government jurisdiction satisfies

1 this requirement, the amount specified in this paragraph shall be
2 made available for nexus grants in equal proportions to local
3 government jurisdictions meeting the requirements of paragraph
4 (3) or (4).

5 (3) Thirty percent of the amount specified in subdivision (c)
6 shall be awarded in equal proportions to local government
7 jurisdictions that meet three of the nexus test criteria in paragraph
8 (1). If no eligible local government jurisdiction satisfies this
9 requirement, the amount specified in this paragraph shall be made
10 available for nexus grants in equal proportions to local
11 government jurisdictions meeting the requirements of paragraph
12 (2) or (4).

13 (4) Twenty percent of the amount specified in subdivision (c)
14 shall be awarded in equal proportions to local government
15 jurisdictions that meet two of the nexus test criteria in paragraph
16 (1). If no eligible local government jurisdiction satisfies this
17 requirement, the amount specified in this paragraph shall be made
18 available for nexus grants in equal proportions to local
19 government jurisdictions meeting the requirements of paragraph
20 (2) or (3).

21 (d) Twenty percent of each individual tribal casino account
22 shall be available for discretionary grants to local jurisdictions
23 impacted by tribes that are paying into the Indian Gaming Special
24 Distribution Fund. These discretionary grants shall be made
25 available to all local jurisdictions in the county irrespective of any
26 nexus to impacts from any particular tribal casino, as described in
27 paragraph (1) of subdivision (c). Grant awards shall be selected by
28 each county's Indian Gaming Local Community Benefit
29 Committee and shall be administered by the county. Grants may
30 be awarded on a multiyear basis, and these multiyear grants shall
31 be accounted for in the grant process for each year.

32 (e) (1) Twenty percent of each individual tribal casino account
33 shall be available for discretionary grants to local jurisdictions
34 impacted by tribes that are not paying into the Indian Gaming
35 Special Distribution Fund. These grants shall be made available to
36 local jurisdictions in the county irrespective of any nexus to
37 impacts from any particular tribal casino, as described in
38 paragraph (1) of subdivision (c), and irrespective of whether the
39 impacts presented are from a tribal casino that is not paying into
40 the Indian Gaming Special Distribution Fund. Grant awards shall



be selected by each county's Indian Gaming Local Community Benefit Committee and shall be administered by the county. Grants may be awarded on a multiyear basis, and of these multiyear grants shall be accounted for in the grant process for each year.

(1)

(A) Grants awarded pursuant to this subdivision are limited to addressing service-oriented impacts and providing assistance with one-time large capital projects related to Indian gaming impacts.

(2)

(B) Grants shall be subject to the sole sponsorship of the tribe that operates the particular Indian gaming facility pays into the Indian Gaming Special Distribution Fund and the recommendations of the Indian Gaming Local Community Benefit Committee for that county.

(2) *If an eligible county does not have a tribal casino operated by a tribe that does not pay into the Indian Gaming Special Distribution Fund, the money available for discretionary grants under this subdivision shall be available for distribution pursuant to subdivision (d).*

(f) (1) For each county that does not have gaming devices subject to an obligation to make payments to the Indian Gaming Special Distribution Fund, funds may be released from the county's County Tribal Casino Account to make grants selected by the county's Indian Gaming Local Community Benefit Committee pursuant to the method established by this section to local jurisdictions impacted by tribal casinos. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to any particular tribal casino. These grants shall follow the priorities specified in subdivision (g).

(2) *Funds not allocated from an individual tribal casino account by the end of each fiscal year shall revert back to the Indian Gaming Special Distribution Fund. Moneys allocated for the 2003–04 fiscal year shall be eligible for expenditure through December 31, 2004.*

(g) The following uses shall be the priorities for the receipt of grant money from Individual Tribal Casino Accounts: law enforcement, fire services, emergency medical services, environmental impacts, water supplies, waste disposal,

1 behavioral, health, planning and adjacent land uses, public health,
2 roads, recreation and youth programs, and child care programs.

3 (h) All grants from Individual Tribal Casino Accounts shall be
4 made only upon the affirmative sponsorship of the tribe paying
5 into the Indian Gaming Special Distribution Fund from whose
6 individual tribal casino account the grant moneys are available for
7 distribution. Tribal sponsorship shall confirm that the grant
8 application has a reasonable relationship to a casino impact and
9 satisfies at least one of the priorities listed in subdivision (g). A
10 grant may not be made for any purpose that would support or fund,
11 directly or indirectly, any effort related to opposition or challenge
12 to Indian gaming in the state, and, to the extent any awarded grant
13 is utilized for any prohibited purpose by any local government,
14 upon notice given to the county by any tribe from whose Individual
15 Tribal Casino Account the awarded grant went toward that
16 prohibited use, the grant shall terminate immediately and any
17 moneys not yet used shall again be made available for qualified
18 nexus grants.

19 (i) A local government jurisdiction that is a recipient of a grant
20 from an Individual County Tribal Casino Account or a County
21 Tribal Casino Account shall provide notice to the public, either
22 through a slogan, signage, or other mechanism, which states that
23 the local government project has received funding from the Indian
24 Gaming Special Distribution Fund and which further identifies the
25 particular Individual Tribal Casino Account from which the grant
26 derives.

27 (j) (1) Each county's Indian Gaming Local Benefit Committee
28 shall submit to the Controller a list of approved projects for
29 funding from Individual Tribal Casino Accounts. Upon receipt of
30 this list, the Controller shall release the funds directly to the local
31 government entities for which a grant has been approved by the
32 committee.

33 (2) Funds not allocated from an individual tribal casino account
34 by the end of each fiscal year shall revert back to the Indian
35 Gaming Special Distribution Fund. *Moneys allocated for the*
36 *2003-04 fiscal year shall be eligible for expenditure through*
37 *December 31, 2004.*

38 SEC. 41. Section 13332.04 of the Government Code is
39 repealed.

~~13332.04.— (a) Approval by the Department of Finance to the creation of deficiencies pursuant to Section 11006 or approval to expend at rates which, in the opinion of the Director of Finance, will require a deficiency appropriation shall not be made unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations not later than 30 days prior to the effective date of the approval, except for an approval for an emergency expenditure or an approval which is due to caseload increases in Medi-Cal, subsistence grants, developmental services, state mental hospitals, California Children’s Services, or youth or adult correctional facilities, or an approval which is due to increased enrollments in local school districts, the University of California, or the California State University, or an approval which is due to increased claims for tax relief or unemployment insurance and disability insurance. All notifications shall include: (1) the date a deficiency request is received by the Department of Finance; (2) the reason for the proposed deficiency; and (3) the approved amount.~~

~~(b) Approval for an emergency expenditure shall be made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations not later than 10 days after the effective date of the approval. All notices shall state the reason for and amount of the deficiency.~~

~~As used in this section, “emergency expenditure” means a proposed expenditure arising from unexpected conditions or losses for which no appropriation, or insufficient appropriation, has been made by law and which, in the judgment of the Director of Finance, requires immediate action to avert undesirable consequences or to preserve the public peace, health, or safety.~~

~~(d) The Department of Finance shall report quarterly to the Chairpersons of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations on the cumulative deficiency requests approved pursuant to subdivisions (a) and (b). The report shall contain the information required in provisions (1), (2), and (3) of subdivision (a). This report shall be filed within 15 days after the close of each fiscal quarter.~~

~~(c) The Department of Finance shall provide copies of all requests from agencies to spend at rates which would result in a deficiency appropriation to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house which considers appropriations. The department shall submit these copies within 10 days of receipt. The transmittal of this information to the Legislature shall not be construed by the requesting agency as approval of the deficiency request.~~

SEC. 42. Section 13332.11 of the Government Code is amended to read:

13332.11. (a) ~~No—(1) Except as otherwise specified in paragraph (2), no funds appropriated for capital outlay may be expended by any state agency, including the University of California, the California State University, and the community colleges, until the Department of Finance and the State Public Works Board have approved preliminary plans for the project to be financed funded from the appropriation for a capital outlay; except that community college approvals by the State Public Works Board shall apply only to the allocation of state capital outlay funds appropriated heretofore and hereafter by the Legislature, including land acquisition and equipment funds appropriation.~~

~~This subdivision~~

(2) Paragraph (1) shall not apply to any of the following:

~~(1)—~~

(A) Amounts for acquisition of ~~land or other~~ real property in fee, or any other lesser interest.

~~(2)—~~

(B) Amounts ~~needed~~ for equipment or minor capital outlay projects.

~~(3)—~~

(C) Amounts appropriated ~~specifically~~ for preliminary plans, surveys, and studies, ~~and planning.~~

(b) Notwithstanding subdivision (a), approvals by the State Public Works Board and the Department of Finance for the University of California and the community colleges shall apply only to the allocation of state capital outlay funds appropriated by the Legislature, including land acquisition and equipment funds.

1 (c) Any appropriated amounts for working drawings or
2 construction where the working drawings or construction have
3 been started by any state agency prior to approval of the
4 preliminary plans by the State Public Works Board, and all
5 amounts not approved by the board under this section shall be
6 reverted to the fund from which the appropriation was made. ~~If the~~
7 ~~Director of Finance or his or her authorized representative requests~~
8 ~~review of working drawings, no~~ No major project for which ~~an a~~
9 capital outlay appropriation is made shall be put out to bid until the
10 working drawings have been approved by the Department of
11 Finance. No substantial change shall be made ~~from~~ to the
12 approved preliminary plans or approved working drawings as
13 ~~approved by the State Public Works Board and the Department of~~
14 ~~Finance~~ without written approval by the Department of Finance.
15 Any proposed construction bid alternates shall be approved by the
16 Department of Finance.

17 ~~(e) No more than two thousand dollars (\$2,000) of funds~~
18 ~~appropriated may be spent for~~

19 (d) *The Department of Finance shall approve the use of funds*
20 *from a capital outlay appropriation for the purchase of any single*
21 *significant unit of equipment until prior approval for the purchase*
22 *of the equipment has been given by the Department of Finance.*

23 ~~(d)~~

24 (e) *The State Public Works Board may augment a major project*
25 *in an amount of up to 20 percent of the total of the capital outlay*
26 *appropriations for the project, irrespective of whether any such*
27 *appropriation has reverted. The State Public Works Board shall*
28 *defer all augmentations in excess of 20 percent of the amount*
29 *appropriated for each capital outlay project until the Legislature*
30 *makes additional funds available for the specific project.*

31 ~~(e)~~

32 (f) *In addition to the powers provided by Section 15849.6, the*
33 *State Public Works Board may further increase the additional*
34 *amount in Section 15849.6 to include a reasonable construction*
35 *reserve within the construction fund for any capital outlay project*
36 *without augmenting the project. The amount of the construction*
37 *reserve shall be within the 20 percent augmentation limitation. The*
38 *State Public Works Board may use this amount to augment the*
39 *project, when and if necessary, after the lease revenue bonds are*
40 *sold to assure completion of the project. Upon completion of the*

1 *project, any amount remaining in the construction reserve funds*
2 *shall be used to offset rental payments.*

3 (g) Augmentations in excess of 10 percent of the amount
4 appropriated for each capital outlay project shall be reported to the
5 Chairperson of the Joint Legislative Budget Committee, or his or
6 her designee, 20 days prior to board approval, or not sooner than
7 whatever lesser time the chairperson, or his or her designee, may
8 in each instance determine. ~~Any augmentation of construction~~
9 ~~projects shall be limited to the amounts appropriated for~~
10 ~~construction contract costs and architectural and engineering~~
11 ~~services costs.~~

12 ~~(f)—~~

13 (h) Prior to State Public Works Board action on any capital
14 outlay appropriation, the Department of Finance shall certify, in
15 writing, to the Chairperson of the Joint Legislative Budget
16 Committee, the chairpersons of the respective fiscal committees,
17 and the legislative ~~members—advisors~~ of the board that the
18 requested action is in accordance with the legislatively approved
19 scope and cost. If, pursuant to the other provisions of this section,
20 the Department of Finance approves changes to the approved
21 scope or cost, or both, the department shall report the changes and
22 associated cost implications. ~~The reports also shall include all~~
23 ~~proposed or potential augmentations in excess of 10 percent of the~~
24 ~~amount appropriated for construction contract costs related to~~
25 ~~capital outlay projects.~~

26 ~~(g)—~~

27 (i) The State Public Works Board shall defer action with respect
28 to approval of ~~any portion of an acquisition project, or approval of~~
29 ~~preliminary plans~~, when it is determined that the estimated cost of
30 the total acquisition project, ~~or construction project~~, *as* approved
31 by the Legislature is in excess of 20 percent of the amount
32 appropriated, unless, ~~in the case of acquisition projects~~, it is
33 determined that a lesser portion of the property is sufficient to meet
34 the objectives of the project approved by the Legislature, and the
35 Chairperson of the Joint Legislative Budget Committee, or his or
36 her designee, is provided a 20-day prior notification of the
37 proposed reductions in the acquisition project, or whatever lesser
38 period the chairperson, or his or her designee, may in each instance
39 determine.

40 ~~(h)—~~

(j) *The State Public Works Board shall defer action with respect to the approval of preliminary plans when it is determined that the estimated cost of the total capital outlay construction project, as approved by the Legislature, is in excess of 20 percent of the amount appropriated.*

(k) *Nothing in this section shall be construed to limit or control the Department of Transportation or the California Exposition and State Fair in the expenditure of all funds appropriated to the department for capital outlay purposes.*

~~(i) Nothing in subdivision (a) or (b) shall be construed to limit or control the California Exposition and State Fair in the expenditure of all funds appropriated to it for capital outlay purposes.~~

SEC. 43. *Section 13332.19 of the Government Code is amended to read:*

13332.19. (a) *For the purposes of this section, the following definitions shall apply:*

(1) *“Design-build” means a construction procurement process in which both the design and construction of a project are procured from a single entity.*

(2) *“Design-build project” means a capital outlay project using the design-build construction procurement process.*

(3) *“Design-build entity” means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed.*

(4) *“Design-build solicitation package” means the performance criteria, any concept drawings deemed necessary by the Department of General Services, the form of contract, and all other documents and information that serve as the basis on which bids or proposals will be solicited from the design-build entities.*

(5) *“Design-build phase” means the period following the award of a contract to a design-build entity in which the design-build entity completes the design and construction activities necessary to fully complete the project in compliance with the terms of the contract.*

(6) *“Performance criteria” means the information that fully describes the scope of the proposed project and includes, but is not limited to, the size, type, and design character of the buildings and site; the required form, fit, function, operational requirements, and quality of design, materials, equipment, and workmanship; and*

1 *any other information deemed necessary to sufficiently describe*
2 *the state's needs.*

3 (7) *"Concept drawings" means any schematic drawings or*
4 *architectural renderings that are prepared, in addition to*
5 *performance criteria, in such detail as the Director of General*
6 *Services determines necessary to sufficiently describe the state's*
7 *needs.*

8 (b) Except as otherwise specified in paragraphs (1) ~~and (2)~~ to
9 (4), *inclusive*, no funds appropriated for a design-build ~~capital~~
10 ~~outlay~~ project may be expended until the Department of Finance
11 and the State Public Works Board have approved performance
12 criteria or performance criteria and concept drawings for the
13 project ~~to be financed from the appropriation for capital outlay.~~

14 This ~~subdivision~~ *section* shall not apply to ~~either~~ *any* of the
15 following:

16 (1) Amounts for acquisition of ~~land~~ *real property, in fee or any*
17 *lesser interest.*

18 (2) Amounts ~~appropriated specifically for preliminary surveys,~~
19 ~~studies, and planning for equipment or minor capital outlay~~
20 ~~projects.~~

21 ~~(b)~~

22 (3) Amounts appropriated for performance criteria and
23 concept drawings.

24 (4) Amounts appropriated for preliminary plans, if the
25 appropriation was made prior to January 1, 2005.

26 (c) Any appropriated amounts for the design-build phase of a
27 design-build project, where funds have been expended on the
28 design-build phase by any state agency prior to the approval of the
29 performance criteria or the performance criteria and concept
30 drawings by the State Public Works Board, and all amounts not
31 approved by the State Public Works Board under this section shall
32 be reverted to the fund from which the appropriation was made. ~~If~~
33 ~~the Director of Finance or his or her authorized representative~~
34 ~~requests review of the design-build bid package, no~~ *No*
35 *design-build project for which an* *a capital outlay* appropriation
36 *is made shall be put out to bid* *design-build solicitation* until the
37 bid package has been approved by the Department of Finance. No
38 substantial change shall be made ~~from~~ *to* the performance criteria
39 *or to* performance criteria and concept drawings as approved by
40 the State Public Works Board and the Department of Finance

without written approval by the Department of Finance. Any proposed bid alternates shall be approved by the Department of Finance.

~~(e)~~

(d) *The State Public Works Board may augment a design-build project in an amount of up to 20 percent of the capital outlay appropriations for the project, irrespective of whether any such appropriation has reverted. The State Public Works Board shall defer all augmentations in excess of 20 percent of the amount appropriated for each design-build capital outlay project until the Legislature makes additional funds available for the specific project.*

~~(d)~~

(e) *In addition to the powers provided by Section 15849.6, the State Public Works Board may further increase the additional amount in Section 15849.6 to include a reasonable construction reserve within the construction fund for any capital outlay project without augmenting the project. The amount of the construction reserve shall be within the 20 percent augmentation limitation. The State Public Works Board may use this amount to augment the project, when and if necessary, after the lease revenue bonds are sold to assure completion of the project. Upon completion of the project, any amount remaining in the construction reserve fund shall be used to offset rental payments.*

~~(f) Any augmentation of the design-build phase of a design-build project shall be consistent with the intent of subdivision (e) of Section 13332.11 in excess of 10 percent of the amounts appropriated for each design-build project shall be reported to the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine.~~

~~(e)~~

(g) *Prior to State Public Works Board action on any capital outlay appropriation for a design-build capital outlay appropriation project, the Department of Finance shall certify, in writing, to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative members of the board that the requested action is in accordance with the legislatively approved scope and cost. If,*

1 pursuant to other provisions of this section, the Department of
2 Finance approves changes to the approved scope or cost, or both,
3 the department shall report the changes and associated cost
4 implications. ~~The reports also shall include all proposed or~~
5 ~~potential augmentations in excess of 10 percent of the amount~~
6 ~~appropriated for the costs of the design-build phase of the capital~~
7 ~~outlay project.~~

8 ~~(f)–~~

9 (h) The State Public Works Board shall defer action with
10 respect to approval of performance criteria or performance criteria
11 and concept drawings, when it is determined that the estimated
12 cost of the total design-build project approved by the Legislature
13 is in excess of 20 percent of the amount appropriated.

14 ~~(g) For the purposes of this section, the following definitions~~
15 ~~shall apply:~~

16 ~~(1) “Concept drawings” means any schematic drawings or~~
17 ~~architectural renderings that are prepared, in addition to~~
18 ~~performance criteria, in such detail as the Director of General~~
19 ~~Services determines necessary to sufficiently describe the state’s~~
20 ~~needs.~~

21 ~~(2) “Design-build bid package” means the performance~~
22 ~~criteria, any concept drawings deemed necessary by the~~
23 ~~Department of General Services, the form of contract, and all other~~
24 ~~documents and information that serve as the basis on which bids~~
25 ~~or proposals will be solicited to the design-build entities.~~

26 ~~(3) “Design-build phase” means the period following the~~
27 ~~award of a contract to a design-build team in which the~~
28 ~~design-build entity completes the design and construction~~
29 ~~activities necessary to fully complete the project in compliance~~
30 ~~with the terms of the contract.~~

31 ~~(4) “Performance criteria” means the information that fully~~
32 ~~describes the scope of the proposed project and includes, but is not~~
33 ~~limited to, the size, type, and design character of the buildings and~~
34 ~~site, the performance specifications that describe the required~~
35 ~~quality of materials, equipment, and workmanship, and any other~~
36 ~~information deemed necessary to sufficiently describe the state’s~~
37 ~~needs.~~

38 SEC. 44. Section 13923 of the Government Code is amended
39 to read:

13923. The board may approve plans for payroll deduction from the salaries or wages of state officers and employees under subdivision (f) of Section 1151 for charitable contributions to the agency handling the principal combined fund drive in any area. The board shall establish necessary rules and regulations, including the following:

(a) Standards for establishing what constitutes the principal combined fund drive in an area.

(b) A requirement that the agency to receive these contributions shall pay, for deposit in the General Fund, the additional cost to the state of making these deductions and remitting the proceeds, as determined by the Controller.

(c) A requirement that the agency to receive these contributions shall pay, for deposit in the General Fund, the board's cost to administer the annual charitable campaign fund drive. This amount shall be determined by the board and may be appropriated in support of the board as reimbursements to Item 8700-001-0001 of the annual Budget Act.

(d) Provisions for standard amounts of deductions from which each state officer or employee may select the contribution that he or she desires to make, if any.

~~(d)~~

(e) A prohibition upon state officers or employees authorizing more than one payroll deduction for charitable purposes to be in effect at the same time.

~~(e)~~

(f) A provision authorizing the Controller to combine in his or her records deductions for employee association dues, if authorized, and charitable deductions, if authorized.

The ~~State Board of Control~~ board, in addition, may approve requests of any charitable organization qualified as an exempt organization under Section 23701d of the Revenue and Taxation Code, and paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, which is not an affiliated member beneficiary of the principal combined fund drive to receive designated deductions from the principal fund drive.

The principal combined fund drive agency, any charitable organization which is an affiliated member beneficiary of the principal combined fund drive, and any charitable organization approved by the ~~State Board of Control~~ board to receive

1 designated deductions on the payroll authorization form of the
2 principal fund drive, shall certify under penalty of perjury to the
3 ~~State Board of Control~~ *board* that it is in compliance with the Fair
4 Employment and Housing Act, Part 2.8 (commencing with
5 Section 12900), as a condition of receiving these designated
6 deductions.

7 The principal combined fund drive shall obtain from the ~~State~~
8 ~~Board of Control~~ *board* the list of approved nonaffiliated
9 beneficiaries, eligible for designated deductions in its approved
10 drive area, and shall provide this information to each employee at
11 the time of the principal fund drive. The principal combined drive
12 agency shall provide a designation form for the employee to
13 indicate those amounts to be contributed to affiliated and
14 nonaffiliated beneficiaries. The designation form shall consist of
15 a copy for each of the following: (1) the employee, (2) the
16 employee's designated beneficiary agency, and (3) the principal
17 combined fund drive agency. The principal combined fund drive
18 agency shall pay the amount collected for the employee designated
19 beneficiary agency less the amount necessary to reimburse the
20 principal combined fund drive agency for fundraising and
21 administrative expenses. The fee charged for fundraising and
22 administrative cost reimbursement shall be determined by the
23 ~~State Board of Control~~ *board*, published in campaign literature
24 and made available to the employee during the solicitation
25 process.

26 Nothing contained in this section shall preclude a principal fund
27 drive agency from giving a percentage of the undesignated funds
28 to charities which are not members of the agency handling the
29 principal drive, or honoring an employee's designated deduction
30 to any charitable organization.

31 *SEC. 45. Section 14604 is added to the Government Code, to*
32 *read:*

33 *14604. Commencing no later than August 1, 2005, and no*
34 *later than August 1 annually thereafter, the Department of General*
35 *Services shall submit to the Department of Finance a proposal that*
36 *reconciles the current fiscal year rates for service fees charged by*
37 *the Department of General Services to state agencies, and details*
38 *any adjustments proposed for budget fiscal year rates to be*
39 *included in the Governor's Budget.*

1 *SEC. 46. Section 14612.2 of the Government Code is*
2 *amended to read:*

3 14612.2. (a) Notwithstanding Chapter 7 (commencing with
4 Section 14850) of Part 5.5 of Division 3 of Title 2 of, or Section
5 14901 of, the Government Code, no agency is required to use the
6 Office of State Publishing for its printing needs and the Office of
7 State Publishing may offer printing services to both state and other
8 public agencies, including cities, counties, special districts,
9 community college districts, the California State University, the
10 University of California, and agencies of the United States
11 government. When soliciting bids for printing services from the
12 private sector, all state agencies shall also solicit a bid from the
13 Office of State Publishing when the project is anticipated to cost
14 more than five thousand dollars (\$5,000).

15 (b) This section shall remain operative only until the effective
16 date of the Budget Act of 2004 2005 or July 1, 2004 2005,
17 whichever is later, and as of January 1, 2005 2006, is repealed,
18 unless a later enacted statute that is enacted before January 1, 2005
19 2006, deletes or extends the dates on which it becomes inoperative
20 and is repealed.

21 *SEC. 47. Section 14661 of the Government Code is amended*
22 *to read:*

23 14661. (a) *For the purposes of this section, the definitions in*
24 *subdivision (a) of Section 13332.19 shall apply.*

25 (b) Notwithstanding any provision of the Public Contract Code
26 or any other provision of law, when the Legislature authorizes the
27 use of the design-build construction procurement process for a
28 specific project, the Director of General Services may contract and
29 procure state office facilities and other buildings, structures, and
30 related facilities pursuant to this section.

31 ~~(b) For purposes of this section, “design-build” means a~~
32 ~~procurement process in which both the design and construction of~~
33 ~~a project are procured from a single entity.~~

34 ~~(c) For purposes of this section, “design-build entity” means~~
35 ~~a partnership, corporation, or other legal entity that is able to~~
36 ~~provide appropriately licensed contracting, architectural, and~~
37 ~~engineering services as needed.~~

38 ~~(d)~~

1 (c) Prior to contracting *with a design-build entity* for the
2 procurement of state office facilities and other state buildings and
3 structures, the director shall:

4 (1) Prepare a program setting forth the ~~scope of the project that~~
5 ~~may include, but is not limited to, the size, type, and desired design~~
6 ~~character of the buildings and site, performance specifications~~
7 ~~covering the quality of materials, equipment, and workmanship,~~
8 ~~or any other information deemed necessary to describe adequately~~
9 ~~the state's needs~~ *performance criteria for the design-build project.*

10 The performance ~~specifications~~ *criteria* shall be prepared by a
11 design professional duly licensed and registered in the State of
12 California.

13 (2) (A) Establish a competitive prequalification and selection
14 process for design-build entities, including any subcontractors
15 listed at the time of bid, that clearly specifies the prequalification
16 criteria, ~~as well as recommend and states~~ the manner in which the
17 winning *design-build* entity will be selected.

18 (B) Prequalification shall be limited to consideration of all of
19 the following criteria:

20 (i) Possession of all required licenses, registration, and
21 credentials in good standing that are required to design and
22 construct the project.

23 (ii) Submission of evidence that establishes that the
24 design-build entity members have completed, or demonstrated the
25 capability to complete, projects of similar size, scope, or
26 complexity, and that proposed key personnel have sufficient
27 experience and training to competently manage and complete the
28 design and construction of the project.

29 (iii) Submission of a proposed project management plan that
30 establishes that the design-build entity has the experience,
31 competence, and capacity needed to effectively complete the
32 project.

33 (iv) Submission of evidence that establishes that the
34 design-build entity has the capacity to obtain all required payment
35 and performance bonding, liability insurance, and errors and
36 omissions insurance, as well as a financial statement that assures
37 the department that the design-build entity has the capacity to
38 complete the project.

1 (v) Provision of a declaration certifying that applying members
2 of the design-build entity have not had a surety company finish
3 work on any project within the last five years.

4 (vi) Provision of information and a declaration providing detail
5 concerning all of the following:

6 (I) Any construction or design claim or litigation totaling more
7 than five hundred thousand dollars (\$500,000) or 5 percent of the
8 annual value of work performed, whichever is less, settled against
9 any member of the design-build entity over the last five years.

10 (II) Serious violations of the Occupational Safety and Health
11 Act, as provided in Part 1 (commencing with Section 6300) of
12 Division 5 of the Labor Code, settled against any member of the
13 design-build entity.

14 (III) Violations of federal or state law, including, but not
15 limited to, those laws governing the payment of wages, benefits,
16 or personal income tax withholding, or of Federal Insurance
17 Contributions Act (FICA) withholding requirements, state
18 disability insurance withholding, or unemployment insurance
19 payment requirements, settled against any member of the
20 design-build entity over the last five years. For the purposes of this
21 subclause, only violations by a design-build member as an
22 employer shall be deemed applicable, unless it is shown that the
23 design-build entity member, in his or her capacity as an employer,
24 had knowledge of his or her subcontractor's violations or failed to
25 comply with the conditions set forth in subdivision (b) of Section
26 1775 of the Labor Code.

27 (IV) Information required by Section 10162 of the Public
28 Contract Code.

29 (V) Violations of the Contractors' State License Law (Chapter
30 9 (commencing with Section 7000) of Division 3 of the Business
31 and Professions Code), excluding alleged violations or
32 complaints.

33 (VI) Any conviction of any member of the design-build entity
34 of submitting a false or fraudulent claim to a public agency over
35 the last five years.

36 (vii) Provision of a declaration that the design-build entity will
37 comply with all other provisions of law applicable to the project,
38 including, but not limited to, the requirements of Chapter 1
39 (commencing with Section 1720) of Part 7 of Division 2 of the
40 Labor Code.

1 (C) The director, when requested by the design-build entity,
2 shall hold in confidence any information required by clauses (i) to
3 (vi), inclusive.

4 (D) Any declaration required under subparagraph (B) shall
5 state that reasonable diligence has been used in its preparation and
6 that it is true and complete to the best of the signer's knowledge.

7 A person who certifies as true any material matter that he or she
8 knows to be false is guilty of a misdemeanor and shall be punished
9 by not more than one year in a county jail, by a fine of not more
10 than five thousand dollars (\$5,000), or by both the fine and
11 imprisonment.

12 (3) (A) ~~Recommend~~ *Determine*, as he or she deems in the best
13 interests of the state, ~~to the Legislature one~~ *which* of the following
14 methods ~~listed in subparagraph (B) will be used~~ as the process ~~to~~
15 ~~be used~~ for the selection of the winning design-build entity. *The*
16 *director shall provide a notification to the State Public Works*
17 *Board, regarding the method selected for determining the winning*
18 *design-build entity, at least 30 days prior to publicizing the*
19 *design-build solicitation package.*

20 (B) *The director shall make his or her determination by*
21 *choosing one of the following methods:*

22 (i) A design-build competition based upon performance, price,
23 and other criteria set forth by the department in the *design-build*
24 *solicitation for proposals package*. The department shall establish
25 technical criteria and methodology, including price, to evaluate
26 proposals and shall describe the criteria and methodology in the
27 ~~request for design-build proposals solicitation package~~. Award
28 shall be made to the design-build entity whose proposal is judged
29 as providing the best value in meeting the interest of the
30 department and meeting the objectives of the project. A project
31 with an approved budget of ten million dollars (\$10,000,000) or
32 more may be awarded pursuant to this clause.

33 (ii) A design-build competition based upon performance and
34 other criteria set forth by the department in the *design-build*
35 *solicitation for proposals package*. Criteria used in this evaluation
36 of proposals may include, but need not be limited to, items such
37 as proposed design approach, life-cycle costs, project features, and
38 functions. However, any criteria and methods used to evaluate
39 proposals shall be limited to those contained in the ~~request for~~
40 *design-build proposals solicitation package*. Award shall be made

to the design-build entity whose proposal is judged as providing the best value, for the lowest price, meeting the interests of the department and meeting the objectives of the project. A project with an approved budget of ten million dollars (\$10,000,000) or more may be awarded pursuant to this clause.

(iii) A design-build competition based upon program requirements and a detailed scope of work, including any *performance criteria* and concept drawings and specifications set forth by the department in the *design-build* solicitation for proposals package. Award shall be made on the basis of the lowest responsible bid. A project with an approved budget of two hundred fifty thousand dollars (\$250,000) or more may be awarded pursuant to this clause.

~~(B) Notwithstanding any other provision of law, no project valued under two hundred fifty thousand dollars (\$250,000) shall be awarded pursuant to subparagraph (A).~~

~~(C) The legislation providing final authorization to construct a specific project using the design-build construction procurement process shall specify one of the methods described in clauses (i) to (iii), inclusive, of subparagraph (A) for the selection of the winning entity.~~

~~(e)~~

(4) For the purposes of this subdivision, the following definitions shall apply:

(A) “Best interest of the state” means a design-build process that is projected by the director to reduce the project delivery schedule and total cost of a project while maintaining a high level of quality workmanship and materials, when compared to the traditional design-bid-build process.

(B) “Best value” means a value determined by objective criteria that may include, but is not limited to, price, features, functions, life cycle costs, experience, and other criteria deemed appropriate by the department.

(d) The Legislature recognizes that the design-build entity is charged with performing both design and construction. Because a design-build contract may be awarded prior to the completion of the design, it is often impracticable for the design-build entity to list all subcontractors at the time of the award. As a result, the subcontractor listing requirements contained in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the

1 Public Contract Code can create a conflict with the
2 implementation of the design-build process by requiring all
3 subcontractors to be listed at a time when a sufficient set of plans
4 may not be available. It is the intent of the Legislature to establish
5 a clear process for the selection and award of subcontracts entered
6 into pursuant to this section in a manner that retains protection for
7 subcontractors while enabling design-build projects to be
8 administered in an efficient fashion. Therefore, all of the following
9 requirements shall apply to subcontractors, licensed pursuant to
10 Chapter 9 (commencing with Section 7000) of Division 3 of the
11 Business and Professions Code, that are employed on design-build
12 projects undertaken pursuant to this section:

13 (1) The department, in each design-build ~~request for proposal~~
14 *solicitation package*, may identify types of subcontractors, by
15 subcontractor license classification, that will be listed by the
16 design-build entity at the time of the bid. In selecting the
17 subcontractors that will be listed by the design-build entity, the
18 department shall limit the identification to only those license
19 classifications deemed essential for proper completion of the
20 project. In no event, however, may the department specify more
21 than five licensed subcontractor classifications. In addition, at its
22 discretion, the design-build entity may list an additional two
23 subcontractors, identified by subcontractor license classification,
24 that will perform design or construction work, or both, on the
25 project. In no event shall the design-build entity list at the time of
26 bid a total amount of subcontractors that will perform design or
27 construction work, or both, in a total of more than seven
28 subcontractor license classifications on a project. All
29 subcontractors that are listed at the time of bid shall be afforded all
30 of the protection contained in Chapter 4 (commencing with
31 Section 4100) of Part 1 of Division 2 of the Public Contract Code.
32 All subcontracts that were not listed by the design-build entity at
33 the time of bid shall be awarded in accordance with paragraph (2).

34 (2) All subcontracts that were not to be performed by the
35 design-build entity in accordance with paragraph (1) shall be
36 competitively bid and awarded by the design-build entity, in
37 accordance with the design-build process set forth by the
38 department in the design-build *solicitation package*. The
39 design-build entity shall do all of the following:



1 (A) Provide public notice of the availability of work to be
2 subcontracted in accordance with Section 10140 of the Public
3 Contract Code.

4 (B) Provide a fixed date and time on which the subcontracted
5 work will be awarded in accordance with Section 10141 of the
6 Public Contract Code.

7 (C) As authorized by the department, establish reasonable
8 prequalification criteria and standards, limited in scope to those
9 detailed in paragraph (2) of subdivision ~~(d)~~ (c).

10 (D) Provide that the subcontracted work shall be awarded to the
11 lowest responsible bidder.

12 ~~(f) For purposes of this section, “best interests of the state”~~
13 ~~shall mean a design-build process that is projected by the director~~
14 ~~to reduce the project delivery schedule and total cost of a project~~
15 ~~while maintaining a high level of quality workmanship and~~
16 ~~materials, when compared to the traditional design-bid-build~~
17 ~~process.~~

18 ~~(g)–~~

19 (e) This section shall not be construed and is not intended to
20 extend or limit the authority specified in Section 19130.

21 ~~(h)–~~

22 (f) Any design-build entity that is selected to design and ~~build~~
23 ~~construct~~ a project pursuant to this section shall possess or obtain
24 sufficient bonding consistent with applicable provisions of the
25 Public Contract Code. Nothing in this section shall prohibit a
26 general or engineering contractor from being designated the lead
27 entity on a design-build entity for the purposes of purchasing
28 necessary bonding to cover the activities of the design-build entity.

29 ~~(i)–~~

30 (g) Any payment or performance bond written for the purposes
31 of this section shall use a bond form developed by the ~~Department~~
32 ~~of General Services~~ *department*. In developing the bond form, the
33 department shall consult with the surety industry to achieve a bond
34 form that is consistent with surety industry standards, while
35 protecting the interests of the state.

36 *SEC. 48. Section 15201 of the Government Code is amended*
37 *to read:*

38 15201. As used in this chapter, “costs incurred by the county”
39 ~~mean~~ *means* all ~~cost~~ *costs*, except normal salaries and expenses,
40 incurred by the county in bringing to trial or trials, including the

1 trial or trials of, a person or persons for the offense of homicide,
2 including costs, except normal salaries and expenses, incurred by
3 the district attorney in investigation and prosecution, by the sheriff
4 in investigation, by the public defender or court-appointed
5 attorney or attorneys in investigation and defense, and all other
6 costs, except normal salaries and expenses, incurred by the county
7 in connection with bringing the person or persons to trial including
8 the trial itself ~~including~~, *which includes* extraordinary expenses
9 for such services as witness fees and expenses, court-appointed
10 expert witnesses, reporter fees, and costs in preparing transcripts.
11 Trial ~~cost~~ costs shall also include all pretrials, hearings, and
12 postconviction proceedings, if any. “Costs incurred by the
13 county” do not include any costs paid by the superior court or for
14 which the superior court is responsible.

15 SEC. 49. Section 16182 of the Government Code is amended
16 to read:

17 16182. (a) All sums paid by the Controller under the
18 provisions of this chapter, together with interest thereon, shall be
19 secured by a lien in favor of the State of California upon the real
20 property or a mobilehome for which property taxes have been
21 postponed, or both. In the case of a residential dwelling which is
22 part of a larger parcel taxed as a unit, such as a duplex, farm, or
23 multipurpose or multidwelling building, the lien shall be against
24 the entire tax parcel.

25 (b) In the case of real property:

26 (1) The lien shall be evidenced by a notice of lien for postponed
27 property taxes executed by the Controller, or the authorized
28 delegate of the Controller, and shall secure all sums paid or owing
29 pursuant to this chapter, including amounts paid subsequent to the
30 initial payment of postponed taxes on the real property described
31 in the notice of lien.

32 (2) The notice of lien may bear the facsimile signature of the
33 Controller. Each signature shall be that of the person who shall be
34 in the office at the time of execution of the notice of lien; provided,
35 however, that such notice of lien shall be valid and binding
36 notwithstanding any such person having ceased to hold the office
37 of Controller before the date of recordation.

38 (3) The form and contents of the notice of lien for postponed
39 property taxes shall be prescribed by the Controller and shall
40 include, but not be limited to, the following:

1 (A) The names of all record owners of the real property for
2 which the Controller has advanced funds for the payment of real
3 property taxes.

4 (B) A description of the real property for which real property
5 taxes have been paid.

6 (C) The identification number of the notice of lien which has
7 been assigned the lien by the Controller.

8 (4) The notice of lien shall be recorded in the office of the
9 county recorder for the county in which the real property subject
10 to the lien is located.

11 (5) The recorded notice of lien shall be indexed in the Grantor
12 Index to the names of all record owners of the real property and in
13 the Grantee Index to the Controller of the State of California.

14 (6) After the notice of lien has been duly recorded and indexed,
15 it shall be returned by the county recorder to the office of the
16 Controller. The recorder shall provide the county tax collector
17 with a copy of the notice of lien which has been recorded by the
18 Controller.

19 (7) From the time of recordation of a notice of lien for
20 postponed property taxes, a lien shall attach to the real property
21 described therein and shall have the priority of a judgment lien for
22 all amounts secured thereby, except that the lien shall remain in
23 effect until either of the following occurs:

24 (A) It is released by the Controller in the manner prescribed by
25 Section 16186.

26 (B) The foreclosure or sale of an obligation secured by a lien
27 which is senior in priority to the lien of the State of California.

28 (c) In the case of mobilehomes:

29 (1) The lien shall be evidenced by a notice of lien for postponed
30 property taxes executed by the Controller, or the authorized
31 delegate of the Controller, and shall secure all sums paid or owing
32 pursuant to this chapter.

33 (2) The notice of lien may bear the facsimile signature of the
34 Controller. The signature shall be that of the person who is in the
35 office at the time of execution of the notice of lien. However, the
36 notice of lien is valid and binding notwithstanding the person
37 having ceased to hold the office of Controller before the date of
38 filing.

1 (3) The form and contents of the notice of lien for postponed
2 property taxes shall be prescribed by the Controller and shall
3 include, but not be limited to, all of the following:

4 (A) The name or names of the registered owner or owners, legal
5 owner or owners, if different than the registered owner or owners
6 and the names, if any, of all junior lienholders.

7 (B) The identification number of the notice of lien which has
8 been assigned the lien by the Controller.

9 (4) The notice of lien shall be transmitted to the Department of
10 Housing and Community Development at its office in Sacramento,
11 California.

12 (5) Upon receipt of the notice of lien for postponed property
13 taxes from the Controller, the Department of Housing and
14 Community Development shall amend the permanent title record
15 of the mobilehome to reflect that the property taxes on the
16 mobilehome are subject to postponement.

17 (6) The Department of Housing and Community Development
18 shall provide the Controller with an acknowledgement of receipt
19 and amendment of the permanent title record.

20 (7) From the time the Department of Housing and Community
21 Development receives the notice of lien from the Controller, the
22 department shall impose a moratorium on any other amendments
23 to the permanent title record of the mobilehome for purposes of
24 transferring any ownership interest or transferring or creating any
25 security interest in the mobilehome, until released by the
26 Controller in the manner prescribed by Section 16186 or an
27 authorization for the amendments is given by the Controller in
28 writing.

29 (d) From the time of filing a notice of lien, a lien shall attach
30 to the mobilehome for which eligibility for the postponement of
31 property taxes has been granted.

32 *(e) Notwithstanding any other provision in this section, any*
33 *action required of a local agency by this section in order to give*
34 *effect to the Senior Citizens Mobilehome Property Tax*
35 *Postponement Law (Chapter 3.3 (commencing with Section*
36 *20639) of Part 10.5 of Division 2 of the Revenue and Taxation*
37 *Code, and that has been determined by the Commission on State*
38 *Mandates to be a reimbursable mandate, shall be optional.*

39 SEC. 50. Section 16320 of the Government Code is amended
40 to read:

1 16320. (a) Unless otherwise prohibited by law, moneys in the
2 State Treasury may be loaned from one state fund or account to any
3 other state fund or account to address the 2001–02, 2002–03, and
4 2003–04 fiscal year budgetary shortfalls, subject to all of the
5 following conditions:

6 (1) The loan is authorized in the 2002 Budget Act, legislation
7 enacted in a 2003–04 Extraordinary Session, or the 2003 Budget
8 Act.

9 (2) The terms and conditions of the loan, including an interest
10 rate, are set forth in the loan authorization.

11 (3) The loan is considered part of the balance of the fund or
12 account that received the funds for the purpose of accounting and
13 budgeting, including any determination made pursuant to Section
14 13307.

15 (4) The loan is not deducted from the balance of the fund or
16 account from which the loan is made for purposes of calculating
17 a fee or assessment.

18 (5) A fee or assessment is not increased as a result of a loan.

19 (6) Moneys loaned under this section are not considered a
20 transfer of resources for purposes of determining the legality of the
21 use of those moneys by the fund or account from which the loan
22 is made or the fund or account that received the loan.

23 (b) (1) The Director of Finance shall order the repayment of all
24 or a portion of any loan made pursuant to subdivision (a) if he or
25 she determines that either of the following circumstances exists:

26 (A) The fund or account from which the loan was made has a
27 need for the moneys.

28 (B) There is no longer a need for the moneys in the fund or
29 account that received the loan.

30 (2) The Director of Finance shall notify, in writing, the
31 Chairperson of the Joint Legislative Budget Committee within 30
32 days of ordering the repayment of any of these loans.

33 (c) On August 1 of each year, the Director of Finance shall
34 report in writing to the Chairperson of the Joint Legislative Budget
35 Committee the balances of these loans as of the preceding June 30.

36 ~~On February 1 of each year, the Director of Finance shall provide~~
37 ~~an updated report to the Chairperson of the Joint Legislative~~
38 ~~Budget Committee on the balances of these outstanding loans, as~~
39 ~~reflected in the preceding Governor's Budget.~~

(d) On February 1 of each year, the Director of Finance shall provide a report on General Fund obligations to the Chairperson of the Joint Legislative Budget Committee and to the chairpersons of the fiscal committees of the Assembly and the Senate. The report shall include both of the following:

(1) An update of the annual August 1 report to the Chairperson of the Joint Legislative Budget Committee on the balances of outstanding loans, as reflected in the preceding Governor's Budget.

(2) A summary and list of loans to the General Fund or obligations for future payment of deferred or suspended expenditures or transfers to any special fund or account and the dates that the loans or obligations are due.

SEC. 51. Section 16351 of the Government Code is amended to read:

16351. (a) When any special fund in the treasury is exhausted, and there is money in the General Fund not required to meet any demand which has accrued or may accrue against it, the Controller shall so report to the Governor and the Treasurer. If ~~they~~ *the Governor and Treasurer* find that the money is not needed in the General Fund, the Governor may order the Controller to ~~direct~~ *the transfer of such that* money, or any part thereof, to the special fund in need. ~~All money so~~

(b) Money transferred pursuant to subdivision (a) shall be returned to the General Fund as soon as there is sufficient money in the special fund to return it.

(c) ~~If such a sufficiency~~ *sufficient money* does not accumulate in the special fund within one year, the amount of money transferred or whatever portion of ~~such that~~ *that* amount is in the fund at that time shall be then returned, and the balance, if any, shall be returned thereafter in monthly installments as it accumulates. Any fund which fails to return the full amount of any transfer within one year from and after the transfer is ineligible to receive further transfers until ~~such time as~~ *it has returned the full amount*. ~~When there is any money in a special fund transferred thereto pursuant to this section, Section 11006 does not apply to that special fund.~~

SEC. 52. Section 16427 of the Government Code is amended to read:

16427. (a) For purposes of this article, "department" means the Department of Justice.

(b) The fund is under the control of the ~~Department of Justice,~~
hereafter referred to as ~~“the department.”~~ *department.* The
department shall maintain accounting records pertaining to the
fund, including subsidiary records of individual litigation deposits
and the disbursements ~~thereof from the fund.~~ *The*

(c) *The department shall file a claim with the State Controller*
to pay out money in the fund to whomever and at ~~such the time as~~
the department ~~may direct; provided that directs.~~ *However, if a*
sum of money in the fund was deposited pursuant to order or
direction of the court, that sum shall be paid to whomever and at
~~such the time as the court may direct directs.~~ *Any*

(d) *The department shall notify the Department of Finance no*
later than 15 days after a transfer from the fund.

(e) Any residue remaining in a deposit account after satisfaction
of all court-directed claims ~~for, or payment of departmental~~
expenditures for that account shall be transferred *no later than July*
1 of each fiscal year to the General Fund.

(f) *The department shall prepare and submit to the chairperson*
of the Joint Legislative Budget Committee, the chairpersons of the
fiscal committees of the Senate and the Assembly, and the Director
of Finance, quarterly reports concerning the activity of the fund
that detail the number of deposits received, the receipt of interest
income, disbursements to claimants, and what amount, if any, was
used for the litigation costs of the department.

SEC. 53. *Section 23344 of the Government Code is amended*
to read:

23344. (a) The commission may borrow ~~such those~~ moneys
as may be necessary to meet its expenses until the costs of the
commission have been determined pursuant to ~~the provisions of~~
Section 23343.

(b) As an alternative to the procedure authorized by
subdivision (a), ~~the commission may request the State Controller,~~
~~and the State Controller,~~ *upon appropriation by the Legislature*
from the General Fund, shall loan from the County Formation
~~Revolving Fund such those~~ moneys as the commission shall
determine necessary to meet its expenses until the costs have been
determined pursuant to ~~the provisions of~~ Section 23343. ~~Such The~~
loan shall be at an interest rate equal to that of the Pooled Money
Investment Fund at the time the loan is made.

1 (c) Loans made pursuant to this section ~~shall~~ *may* not exceed a
2 total of ~~one hundred thousand dollars (\$100,000)~~ *four hundred*
3 *thousand dollars (\$400,000)* for each commission, and shall be
4 repaid within one year of the date on which the issue of county
5 formation was voted on by the people.

6 (d) ~~The sum of one hundred thousand dollars (\$100,000) shall~~
7 ~~be transferred from the General Fund to the County Formation~~
8 ~~Revolving Fund, which is hereby created, and is hereby~~
9 ~~appropriated, without regard to fiscal years, for purposes of this~~
10 ~~section. An additional sum of three hundred thousand dollars~~
11 ~~(\$300,000) shall be transferred from the General Fund to the~~
12 ~~County Formation Revolving Fund on the effective date of the act~~
13 ~~amending this section during the 1977-78 Regular Session, and is~~
14 ~~hereby appropriated without regard to fiscal years for purposes of~~
15 ~~this section. The additional sum thus appropriated may be~~
16 ~~expended for any obligation incurred by any commission at any~~
17 ~~time. Any repayments on loans made pursuant to this section,~~
18 ~~including interest, received by the State Controller shall be~~
19 ~~deposited in the County Formation Revolving General Fund.~~

20 (e) *If the loans made pursuant to this section are not repaid, the*
21 *Controller is authorized to reduce the moneys allocated to the*
22 *county to which the loan was made by an amount equal to the*
23 *amount that is owed to the state. This reduction shall be made from*
24 *the subventions made pursuant to Sections 16100 and 16120.*

25 SEC. 54. Section 27297.5 of the Government Code is
26 amended to read:

27 27297.5. (a) Upon recordation of an abstract of judgment or
28 other document creating an involuntary lien affecting the title to
29 real property, unless the county recorder has received from the
30 judgment creditor proof of service pursuant to subdivision (b) of
31 a copy of the document being recorded, the county recorder ~~shall~~
32 *may*, whenever the recorded document evidencing such lien
33 contains the address of the person or persons against whom the
34 involuntary lien is recorded or the address of the judgment debtor's
35 attorney of record, within 10 days notify the person or persons or
36 attorney of record by mail of the recordation.

37 (b) As an alternative to notice by the recorder, the judgment
38 creditor or lienholder may serve upon the person or persons against
39 whom the abstract of judgment or document creating an

1 involuntary lien is to be recorded, a copy thereof in one of the
2 following ways:

3 (1) By personal delivery. Proof of service pursuant to this
4 paragraph shall be shown by the affidavit of the person making the
5 service, showing the time, place, and manner of service, the name
6 and address of the person served, and any other facts necessary to
7 show that service was made in accordance with this paragraph. If
8 there is no address for a person to be served known to the judgment
9 creditor or lienholder, he or she shall append to the abstract of
10 judgment or involuntary lien an affidavit to that effect.

11 (2) By leaving it at the person's residence or place of business
12 in the care of some person in charge. Proof of service pursuant to
13 this paragraph shall be shown by the affidavit of the person making
14 the service, showing the time, place, and manner of service, the
15 name and address of the person served, together with the title or
16 capacity of the person accepting service, and any other facts
17 necessary to show that service was made in accordance with this
18 paragraph.

19 (3) By registered or certified mail, postage prepaid, addressed
20 to the person's residence or place of business. This service is
21 complete at the time of mailing. Proof of service pursuant to this
22 paragraph shall be shown by an affidavit setting forth the fact of
23 service, the name and residence or business address of the person
24 making this service, showing that he or she is a resident of, or
25 employed in, the county where the mailing occurs, the fact that he
26 or she is over the age of 18 years, the date and place of deposit in
27 the mail, the name and address of the person served as shown on
28 the envelope, and the fact that the envelope was sealed and
29 deposited in the mail, with the postage thereon fully prepaid, and
30 sent by registered or certified mail.

31 (c) The judgment creditor may add the actual cost of service
32 pursuant to subdivision (b) to the judgment or involuntary lien.
33 The costs shall not exceed the cost had the abstract of judgment or
34 involuntary lien been recorded pursuant to subdivision (a).

35 (d) As used in this section, "involuntary lien" means a lien
36 ~~which~~ that the person or persons against whom the lien is recorded
37 has not executed or has not consented to by contract.

38 (e) This section shall not apply to the recordation of any
39 documents relating to an involuntary lien in favor of the federal

1 government pursuant to federal law or statute or to the recordation
2 of any state tax lien against real property.

3 (f) The failure of the county recorder or a judgment creditor or
4 lienholder to notify the person or persons against whom an abstract
5 of judgment or involuntary lien is recorded as ~~required~~ *authorized*
6 by this section shall not affect the constructive notice otherwise
7 imparted by recordation, nor shall it affect the force, effect, or
8 priority otherwise accorded the lien.

9 (g) In the event that the notice is returned to the recorder by the
10 postal service as undeliverable, the recorder is not required to
11 retain the returned notice.

12 (h) *In recognition of the state and local interests served by the*
13 *action made optional in subdivision (a), the Legislature*
14 *encourages local agencies to continue taking the action formerly*
15 *mandated by this section. However, nothing in this subdivision*
16 *may be construed to impose any liability on a local agency that*
17 *does not continue to take the formerly mandated action.*

18 SEC. 54.5. Section 29550 of the Government Code is
19 amended to read:

20 29550. (a) (1) Notwithstanding any other provision of law,
21 a county may impose a fee upon a city, special district, school
22 district, community college district, college, or university for
23 reimbursement of county expenses incurred with respect to the
24 booking or other processing of persons arrested by an employee of
25 that city, special district, school district, community college
26 district, college, or university, where the arrested persons are
27 brought to the county jail for booking or detention. The fee
28 imposed by a county pursuant to this section shall not exceed the
29 actual administrative costs, including applicable overhead costs as
30 permitted by federal Circular A-87 standards, as defined in
31 subdivision (d), incurred in booking or otherwise processing
32 arrested persons. *For the 2005–06 fiscal year and each fiscal year*
33 *thereafter, the fee imposed by a county pursuant to this subdivision*
34 *shall not exceed one-half of the actual administrative costs,*
35 *including applicable overhead costs as permitted by federal*
36 *Circular A-87 standards, as defined in subdivision (d), incurred in*
37 *booking or otherwise processing arrested persons.* A county may
38 submit an invoice to a city, special district, school district,
39 community college district, college, or university for these
40 expenses incurred by the county on and after July 1, 1990.

1 Counties shall fully disclose the costs allocated as federal Circular
2 A-87 overhead.

3 (2) Any increase in a fee charged pursuant to this section shall
4 be adopted by a county prior to the beginning of its fiscal year and
5 may be adopted only after the county has provided each city,
6 special district, school district, community college district,
7 college, or university 45 days written notice of a public meeting
8 held pursuant to Section 54952.2 on the fee increase and the county
9 has conducted the public meeting.

10 (3) Any county that imposes a fee pursuant to this section shall
11 negotiate a reduced fee with any city, special district, school
12 district, community college district, college, or university within
13 the county for any services that are performed by the arresting
14 agency in the processing of arrestees that do not have to be
15 duplicated by the county.

16 (4) This subdivision shall not apply to counties that are under
17 a contractual agreement with a city, special district, school district,
18 community college district, college, or university within the
19 county that is subject to the fee.

20 (b) The exemption of a local agency from the payment of a fee
21 pursuant to this subdivision does not exempt the person arrested
22 from the payment of fees for booking or other processing.

23 (1) Notwithstanding subdivision (a), a city, special district,
24 school district, community college district, college, or university
25 shall not be charged fees for arrests on any bench warrant for
26 failure to appear in court, nor on any arrest warrant issued in
27 connection with a crime not committed within the entity's
28 jurisdiction.

29 (2) Notwithstanding subdivision (a), a city, special district,
30 school district, community college district, college, or university
31 shall not be charged fees for a person who is ordered by a court to
32 be remanded to the county jail except that a county may charge a
33 fee to recover those direct costs for those functions required to
34 book a person pursuant to subdivision (g) of Section 853.6 of the
35 Penal Code.

36 (3) Notwithstanding subdivision (a), a city, special district,
37 school district, community college district, college, or university
38 shall not be charged fees for arrests made pursuant to arrest
39 warrants originating outside of its jurisdiction.



1 (4) Notwithstanding subdivision (a), no fees shall be charged
2 to a city, special district, school district, community college
3 district, college, or university on parole violation arrests or
4 probation-ordered returns to custody, unless a new charge has been
5 filed for a crime committed in the jurisdiction of the arresting city,
6 district, college, or university.

7 (5) An agency making a mutual aid request shall pay fees *in*
8 *accordance with subdivision (a)* that result from arrests made in
9 response to the mutual aid request except that in the event the
10 Governor declares a state of emergency, no agency shall be
11 charged fees for any arrest made during any riot, disturbance, or
12 event that is subject to the declaration.

13 (6) Notwithstanding subdivision (a), no fees shall be charged
14 to a city, special district, school district, community college
15 district, college, or university for the arrest of a prisoner who has
16 escaped from a county, state, or federal detention or corrections
17 facility.

18 (7) Notwithstanding subdivision (a), no fees shall be charged
19 to a city, special district, school district, community college
20 district, college, or university for arrestees held in temporary
21 detention at a court facility for purposes of arraignment when the
22 arrestee has been previously booked at an entity detention facility.

23 (8) Notwithstanding subdivision (a), no fees shall be charged
24 to a city, special district, school district, community college
25 district, college, or university as the result of an arrest made by its
26 officer assigned to a formal multiagency task force in which the
27 county is a participant. For the purposes of this section, “formal
28 task force” means a task force that has been established by written
29 agreement of the participating agencies.

30 (9) In those counties where the cities and the county participate
31 in a consolidated booking program and where prior to arraignment
32 an arrestee is transferred from a city detention facility to a county
33 detention facility, the city shall not be charged for those tasks listed
34 in subdivision (d) that are a part of the consolidated booking
35 program which were completed by the city prior to delivering the
36 arrestee to the county detention facility. However, the county may
37 charge the actual administrative costs for those additional tasks
38 listed in subdivision (d) that are performed in order to receive the
39 arrestee into the county detention facility. *For the 2005-06 fiscal*
40 *year and each fiscal year thereafter, the county may charge up to*

one-half of the actual administrative costs for those additional tasks listed in subdivision (d) that are performed in order to receive the arrestee into the county detention facility.

(c) Any county whose officer or agent arrests a person is entitled to recover from the arrested person a criminal justice administration fee for administrative costs it incurs in conjunction with the arrest if the person is convicted of any criminal offense related to the arrest, whether or not it is the offense for which the person was originally booked. The fee which the county is entitled to recover pursuant to this subdivision shall not exceed the actual administrative costs, including applicable overhead costs incurred in booking or otherwise processing arrested persons.

(d) When the court has been notified in a manner specified by the court that a criminal justice administration fee is due the agency:

(1) A judgment of conviction may impose an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution may be issued on the order in the same manner as a judgment in a civil action, but shall not be enforceable by contempt.

(2) The court shall, as a condition of probation, order the convicted person, based on his or her ability to pay, to reimburse the county for the criminal justice administration fee, including applicable overhead costs.

(e) As used in this section, “actual administrative costs” include only those costs for functions that are performed in order to receive an arrestee into a county detention facility. Operating expenses of the county jail facility including ~~capital~~ *capital* costs and those costs involved in the housing, feeding, and care of inmates shall not be included in calculating “actual administrative costs.” “Actual administrative costs” may include the cost of notifying any local agency, special district, school district, community college district, college or university of any change in the fee charged by a county pursuant to this section. “Actual administrative costs” may include any one or more of the following as related to receiving an arrestee into the county detention facility:

(1) The searching, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and mental screening of an arrestee.



1 (2) Document preparation, retrieval, updating, filing, and court
2 scheduling related to receiving an arrestee into the detention
3 facility.

4 (3) Warrant service, processing, and detainer.

5 (4) Inventory of an arrestee's money and creation of cash
6 accounts.

7 (5) Inventory and storage of an arrestee's property.

8 (6) Inventory, laundry, and storage of an arrestee's clothing.

9 (7) The classification of an arrestee.

10 (8) The direct costs of automated services utilized in
11 paragraphs (1) to (7), inclusive.

12 (9) Unit management and supervision of the detention function
13 as related to paragraphs (1) to (8), inclusive.

14 (f) An administrative screening fee of twenty-five dollars (\$25)
15 shall be collected from each person arrested and released on his or
16 her own recognizance upon conviction of any criminal offense
17 related to the arrest other than an infraction. A citation processing
18 fee in the amount of ten dollars (\$10) shall be collected from each
19 person cited and released by any peace officer in the field or at a
20 jail facility upon conviction of any criminal offense, other than an
21 infraction, related to the criminal offense cited in the notice to
22 appear. However, the court may determine a lesser fee than
23 otherwise provided in this subdivision upon a showing that the
24 defendant is unable to pay the full amount. All fees collected
25 pursuant to this subdivision shall be transmitted by the county
26 auditor monthly to the Controller for deposit in the General Fund.
27 This subdivision applies only to convictions occurring on or after
28 the effective date of the act adding this subdivision and prior to
29 June 30, 1996.

30 *SEC. 55. Section 29550.4 of the Government Code is*
31 *amended to read:*

32 29550.4. (a) (1) Notwithstanding Section 13340, the sum of
33 up to fifty million dollars (\$50,000,000) is hereby continuously
34 appropriated annually from the General Fund to the Controller
35 commencing with the 1999–2000 fiscal year for allocation to cities
36 and qualified special districts for reimbursement for actual costs
37 incurred by cities and qualified special districts in the payment of
38 booking and processing fees pursuant to this article. For the
39 1999–2000 fiscal year, this appropriation shall be allocated to
40 cities and qualified special districts for reimbursement for actual

costs incurred by them during the period July 1, 1997, to July 1, 1998. If the actual costs incurred by cities and qualified special districts during the period of July 1, 1997, to July 1, 1998, in the payment to counties of booking and processing fees is greater than fifty million dollars (\$50,000,000), then the Controller shall prorate the reimbursement to each city and qualified special district accordingly.

(2) For the 2004–05 fiscal year, no county shall assess a booking or processing fee pursuant to this article in excess of the fee in place on January 1, 2004.

(b) Not later than December 1, 1999, the Controller shall allocate the funds appropriated pursuant to subdivision (a) to all qualified cities and qualified special districts and shall certify to the Director of Finance the actual amount of money allocated to cities and qualified special districts for the payment of booking and processing fees pursuant to subdivision (a).

(c) Notwithstanding any other provision of this article, any city that pays booking and processing fees to another city is eligible for reimbursement pursuant to this section on the same basis as a city that pays booking and processing fees to a county. The amount of reimbursement for a city shall be based on the processing fees charged by the county in which that city is located. This subdivision shall apply to reimbursements beginning in the 2000–01 fiscal year based on costs incurred in the 1997–98 fiscal year.

(d) Any city or qualified special district that applies for reimbursement pursuant to this section shall comply with all requests made by the Controller. Any city or qualified special district that contracts with a county for the payment of those fees shall be ineligible for reimbursement pursuant to this section. A city that has entered into a memorandum of understanding with its county effective May 17, 1994, which agreement allows for the payment of prepaid annual rent to satisfy the city’s booking fee obligation, shall be eligible to receive reimbursement pursuant to this section.

(e) Any qualified city that did not apply for reimbursement pursuant to this section at the time required to receive funds allocated by the Controller not later than December 1, 1999, in the 1999–2000 fiscal year may apply for that reimbursement by October 1, 2000. Any qualified special district may apply to the

1 Controller for reimbursement pursuant to this section for the
2 1999–2000 fiscal year by October 1, 2000.

3 (f) For the purposes of this section, “qualified special district”
4 means both of the following:

5 (1) A district that supplants the law enforcement functions of
6 the county within the jurisdiction of that district.

7 (2) A district that employs peace officers, as described in
8 Section 830.1 of the Penal Code, who are certified as meeting
9 those standards and requirements established pursuant to Article
10 2 (commencing with Section 13510) of Chapter 1 of Title 4 of Part
11 4 of the Penal Code.

12 (g) *This section shall become inoperative on July 1, 2005, and,*
13 *as of January 1, 2006, is repealed, unless a later enacted statute,*
14 *that becomes operative on or before January 1, 2006, deletes or*
15 *extends the dates on which it becomes inoperative and is repealed.*

16 *SEC. 55.5. Section 30070 of the Government Code is*
17 *amended to read:*

18 30070. (a) The sum of eighteen million five hundred
19 thousand dollars (\$18,500,000) is hereby annually appropriated
20 from the General Fund to the Controller for allocation to county
21 sheriffs’ departments to enhance law enforcement efforts in the
22 counties specified in paragraphs (1) to (37), inclusive, according
23 to the following schedule:

24		
25	(1) Alpine County	500,000
26	(2) Amador County	500,000
27	(3) Butte County	500,000
28	(4) Calaveras County	500,000
29	(5) Colusa County	500,000
30	(6) Del Norte County	500,000
31	(7) El Dorado County	500,000
32	(8) Glenn County	500,000
33	(9) Humboldt County	500,000
34	(10) Imperial County	500,000
35	(11) Inyo County	500,000
36	(12) Kings County	500,000
37	(13) Lake County	500,000
38	(14) Lassen County	500,000
39	(15) Madera County	500,000
40	(16) Marin County	500,000

1	(17) Mariposa County	500,000
2	(18) Mendocino County	500,000
3	(19) Merced County	500,000
4	(20) Modoc County	500,000
5	(21) Mono County	500,000
6	(22) Napa County	500,000
7	(23) Nevada County	500,000
8	(24) Placer County	500,000
9	(25) Plumas County	500,000
10	(26) San Benito County	500,000
11	(27) San Luis Obispo County	500,000
12	(28) Santa Cruz County	500,000
13	(29) Shasta County	500,000
14	(30) Sierra County	500,000
15	(31) Siskiyou County	500,000
16	(32) Sutter County	500,000
17	(33) Tehama County	500,000
18	(34) Trinity County	500,000
19	(35) Tuolumne County	500,000
20	(36) Yolo County	500,000
21	(37) Yuba County	500,000

22

23 (b) Funds allocated pursuant to this section shall be used to
 24 supplement rather than supplant existing law enforcement
 25 resources.

26 (c) The appropriation and allocation of funds to county
 27 sheriffs' departments under this section shall be suspended for the
 28 2003–04 and 2004–05 fiscal years year.

29 *SEC. 56. Section 63021.5 of the Government Code is*
 30 *amended to read:*

31 63021.5. (a) The bank shall be governed and its corporate
 32 power exercised by a board of directors that shall consist of the
 33 following persons:

34 (1) The Director of Finance or his or her designee.

35 (2) The Treasurer or his or her designee.

36 (3) The Secretary of Business, Transportation and Housing or
 37 his or her designee, who shall serve as chair of the board.

38 (4) *An appointee of the Governor.*

39 (5) *The Secretary of State and Consumer Services Agency or his*
 40 *or her designee.*



1 (b) Any designated director shall serve at the pleasure of the
2 designating power.

3 (c) ~~Two~~ Three of the members shall constitute a quorum and
4 the affirmative vote of ~~two~~ three board members shall be
5 necessary for any action to be taken by the board.

6 (d) ~~No~~ A member of the board shall *not* participate in any bank
7 action or attempt to influence any decision or recommendation by
8 any employee of, or consultant to, the bank that involves a sponsor
9 of which he or she is a representative or in which the member or
10 a member of his or her immediate family has a personal financial
11 interest within the meaning of Section 87100. For purposes of this
12 section, “immediate family” means the spouse, children, and
13 parents of the member.

14 (e) Except as provided in this subdivision, the members of the
15 board shall serve without compensation, but shall be reimbursed
16 for actual and necessary expenses incurred in the performance of
17 their duties to the extent that reimbursement for these expenses is
18 not otherwise provided or payable by another public agency, and
19 shall receive one hundred dollars (\$100) for each full day of
20 attending meetings of the authority.

21 *SEC. 57. Section 65583 of the Government Code is amended*
22 *to read:*

23 65583. The housing element shall consist of an identification
24 and analysis of existing and projected housing needs and a
25 statement of goals, policies, quantified objectives, financial
26 resources, and scheduled programs for the preservation,
27 improvement, and development of housing. The housing element
28 shall identify adequate sites for housing, including rental housing,
29 factory-built housing, and mobilehomes, and shall make adequate
30 provision for the existing and projected needs of all economic
31 segments of the community. The element shall contain all of the
32 following:

33 (a) An assessment of housing needs and an inventory of
34 resources and constraints relevant to the meeting of these needs.
35 The assessment and inventory shall include all of the following:

36 (1) An analysis of population and employment trends and
37 documentation of projections and a qualification of the locality’s
38 existing and projected housing needs for all income levels. These
39 existing and projected needs shall include the locality’s share of the
40 regional housing need in accordance with Section 65584.

1 (2) An analysis and documentation of household
2 characteristics, including level of payment compared to ability to
3 pay, housing characteristics, including overcrowding, and housing
4 stock condition.

5 (3) An inventory of land suitable for residential development,
6 including vacant sites and sites having potential for
7 redevelopment, and an analysis of the relationship of zoning and
8 public facilities and services to these sites.

9 (4) An analysis of potential and actual governmental
10 constraints upon the maintenance, improvement, or development
11 of housing for all income levels and for persons with disabilities
12 as identified in the analysis pursuant to paragraph (6), including
13 land use controls, building codes and their enforcement, site
14 improvements, fees and other exactions required of developers,
15 and local processing and permit procedures. The analysis shall also
16 demonstrate local efforts to remove governmental constraints that
17 hinder the locality from meeting its share of the regional housing
18 need in accordance with Section 65584 and from meeting the need
19 for housing for persons with disabilities identified pursuant to
20 paragraph (6).

21 (5) An analysis of potential and actual nongovernmental
22 constraints upon the maintenance, improvement, or development
23 of housing for all income levels, including the availability of
24 financing, the price of land, and the cost of construction.

25 (6) An analysis of any special housing needs, such as those of
26 the elderly, persons with disabilities, large families, farmworkers,
27 families with female heads of households, and families and
28 persons in need of emergency shelter. *The department shall adopt*
29 *regulations to implement this paragraph, including parts of this*
30 *paragraph determined by the department or any other state agency*
31 *or a court to be a reimbursable state mandate. For any revision of*
32 *a housing element required pursuant to Section 65588 that occurs*
33 *subsequent to the adoption of those regulations, any actions*
34 *undertaken by the locality beyond those specified in the*
35 *regulations are at that locality's option and are not required by this*
36 *section.*

37 (7) ~~An~~ At the option of local government, an analysis of
38 opportunities for energy conservation with respect to residential
39 development.

1 (8) An analysis of existing assisted housing developments that
2 are eligible to change from low-income housing uses during the
3 next 10 years due to termination of subsidy contracts, mortgage
4 prepayment, or expiration of restrictions on use. “Assisted
5 housing developments,” for the purpose of this section, shall mean
6 multifamily rental housing that receives governmental assistance
7 under federal programs listed in subdivision (a) of Section
8 65863.10, state and local multifamily revenue bond programs,
9 local redevelopment programs, the federal Community
10 Development Block Grant Program, or local in-lieu fees.
11 “Assisted housing developments” shall also include multifamily
12 rental units that were developed pursuant to a local inclusionary
13 housing program or used to qualify for a density bonus pursuant
14 to Section 65916.

15 (A) The analysis shall include a listing of each development by
16 project name and address, the type of governmental assistance
17 received, the earliest possible date of change from low-income use
18 and the total number of elderly and nonelderly units that could be
19 lost from the locality’s low-income housing stock in each year
20 during the 10-year period. For purposes of state and federally
21 funded projects, the analysis required by this subparagraph need
22 only contain information available on a statewide basis.

23 (B) The analysis shall estimate the total cost of producing new
24 rental housing that is comparable in size and rent levels, to replace
25 the units that could change from low-income use, and an estimated
26 cost of preserving the assisted housing developments. This cost
27 analysis for replacement housing may be done aggregately for
28 each five-year period and does not have to contain a
29 project-by-project cost estimate.

30 (C) The analysis shall identify public and private nonprofit
31 corporations known to the local government which have legal and
32 managerial capacity to acquire and manage these housing
33 developments.

34 (D) The analysis shall identify and consider the use of all
35 federal, state, and local financing and subsidy programs which can
36 be used to preserve, for lower income households, the assisted
37 housing developments, identified in this paragraph, including, but
38 not limited to, federal Community Development Block Grant
39 Program funds, tax increment funds received by a redevelopment
40 agency of the community, and administrative fees received by a



housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) (A) Identify adequate sites which will be made available through appropriate zoning and development standards and with services and facilities, including sewage collection and treatment, domestic water supply, and septic tanks and wells, needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, emergency shelters, and transitional



1 housing in order to meet the community's housing goals as
2 identified in subdivision (b).

3 (i) Where the inventory of sites, pursuant to paragraph (3) of
4 subdivision (a), does not identify adequate sites to accommodate
5 the need for groups of all household income levels pursuant to
6 Section 65584, the program shall provide for sufficient sites with
7 zoning that permits owner-occupied and rental multifamily
8 residential use by right, including density and development
9 standards that could accommodate and facilitate the feasibility of
10 housing for very low and low-income households.

11 (ii) Where the inventory of sites pursuant to paragraph (3) of
12 subdivision (a) does not identify adequate sites to accommodate
13 the need for farmworker housing, the program shall provide for
14 sufficient sites to meet the need with zoning that permits
15 farmworker housing use by right, including density and
16 development standards that could accommodate and facilitate the
17 feasibility of the development of farmworker housing for low- and
18 very low income households.

19 (B) For purposes of this paragraph, the phrase "use by right"
20 shall mean the use does not require a conditional use permit, except
21 when the proposed project is a mixed-use project involving both
22 commercial or industrial uses and residential uses. Use by right for
23 all rental multifamily residential housing shall be provided in
24 accordance with subdivision (f) of Section 65589.5.

25 (C) The requirements of this subdivision regarding
26 identification of sites for farmworker housing shall apply
27 commencing with the next revision of housing elements required
28 by Section 65588 following the enactment of this subparagraph.

29 (2) Assist in the development of adequate housing to meet the
30 needs of low- and moderate-income households.

31 (3) Address and, where appropriate and legally possible,
32 remove governmental constraints to the maintenance,
33 improvement, and development of housing, including housing for
34 all income levels and housing for persons with disabilities. The
35 program shall remove constraints to, or provide reasonable
36 accommodations for housing designed for, intended for
37 occupancy by, or with supportive services for, persons with
38 disabilities.

39 (4) Conserve and improve the condition of the existing
40 affordable housing stock, which may include addressing ways to

1 mitigate the loss of dwelling units demolished by public or private
2 action.

3 (5) Promote housing opportunities for all persons regardless of
4 race, religion, sex, marital status, ancestry, national origin, color,
5 familial status, or disability.

6 (6) (A) Preserve for lower income households the assisted
7 housing developments identified pursuant to paragraph (8) of
8 subdivision (a). The program for preservation of the assisted
9 housing developments shall utilize, to the extent necessary, all
10 available federal, state, and local financing and subsidy programs
11 identified in paragraph (8) of subdivision (a), except where a
12 community has other urgent needs for which alternative funding
13 sources are not available. The program may include strategies that
14 involve local regulation and technical assistance.

15 (B) The program shall include an identification of the agencies
16 and officials responsible for the implementation of the various
17 actions and the means by which consistency will be achieved with
18 other general plan elements and community goals. The local
19 government shall make a diligent effort to achieve public
20 participation of all economic segments of the community in the
21 development of the housing element, and the program shall
22 describe this effort.

23 (d) The analysis and program for preserving assisted housing
24 developments required by the amendments to this section enacted
25 by the Statutes of 1989 shall be adopted as an amendment to the
26 housing element by July 1, 1992.

27 (e) Failure of the department to review and report its findings
28 pursuant to Section 65585 to the local government between July
29 1, 1992, and the next periodic review and revision required by
30 Section 65588, concerning the housing element amendment
31 required by the amendments to this section by the Statutes of 1989,
32 shall not be used as a basis for allocation or denial of any housing
33 assistance administered pursuant to Part 2 (commencing with
34 Section 50400) of Division 31 of the Health and Safety Code.

35 *SEC. 58. Section 65584.1 is added to the Government Code,*
36 *to read:*

37 *65584.1. Councils of government may charge a fee to local*
38 *governments to cover the projected reasonable, actual costs of the*
39 *council in distributing regional housing needs pursuant to this*
40 *article. Any fee shall not exceed the estimated amount required to*

1 *implement its obligations under this article. A city, county, or city*
2 *and county may charge a fee, including, but not limited to, a fee*
3 *pursuant to Section 65104 to support the work of the planning*
4 *agency pursuant to this article, and to reimburse it for the cost of*
5 *any fee charged by the council of government to cover the council's*
6 *actual costs in distributing regional housing needs. The legislative*
7 *body of the city, county, or city and county shall impose any fee*
8 *pursuant to Section 66016. This section is declaratory of existing*
9 *law.*

10 *SEC. 59. Section 65584.2 is added to the Government Code,*
11 *to read:*

12 *65584.2. A local government may, but is not required to,*
13 *conduct a review or appeal regarding allocation data provided by*
14 *the department or the council of governments pertaining the*
15 *locality's share of the regional housing need or the submittal of*
16 *data or information for a proposed allocation, as permitted by this*
17 *article.*

18 *SEC. 60. Section 68511.8 is added to the Government Code,*
19 *to read:*

20 *68511.8. (a) On or before December 1 of each year until*
21 *project completion, the Judicial Council shall provide an annual*
22 *status report to the chairperson of the budget committee in each*
23 *house of the Legislature and the chairperson of the Joint*
24 *Legislative Budget Committee with regard to the California Case*
25 *Management System and Court Accounting and Reporting*
26 *System. The report shall include, but is not limited to, all of the*
27 *following:*

28 *(1) Project accomplishments to date.*

29 *(2) Project activities underway.*

30 *(3) Proposed activities.*

31 *(4) Annual revenues and expenditures to date in support of*
32 *these projects, which shall include all costs for the Administrative*
33 *Office of the Courts and incremental court personnel, contracts,*
34 *and hardware and software.*

35 *(b) On or before December 1 of each year until project*
36 *completion, the Administrative Office of the Courts shall provide,*
37 *on an annual basis to the chairperson of the budget committee in*
38 *each house of the Legislature and the chairperson of the Joint*
39 *Legislative Budget Committee, copies of any independent project*
40 *oversight report for the California Case Management System. The*

1 *independent project oversight report shall include, but is not*
 2 *limited to, a review and an assessment of project activities,*
 3 *identification of deficiencies, and recommendations to the*
 4 *Administrative Office of the Courts on how to address those*
 5 *deficiencies. The Administrative Office of the Courts shall include*
 6 *in the annual submission descriptions on actions taken to address*
 7 *identified deficiencies.*

8 (c) *Within 18 months of fully implementing the California Case*
 9 *Management System and the Court Accounting and Reporting*
 10 *System projects, the Administrative Office of the Courts shall*
 11 *provide to the chairperson of the budget committee in each house*
 12 *of the Legislature and the chairperson of the Joint Legislative*
 13 *Budget Committee, a postimplementation evaluation report for*
 14 *each project. The report shall include, but is not limited to, a*
 15 *summary of the project background, project results, and an*
 16 *assessment of the attainment of project objectives.*

17 SEC. 61. *Section 69926.5 of the Government Code is*
 18 *amended to read:*

19 69926.5. (a) *To ensure and maintain adequate funding for*
 20 *court security, a surcharge of twenty dollars (\$20) is added to the*
 21 *total fee collected pursuant to Section 26820.4, 26826, 26827,*
 22 *72055, or 72056.*

23 (b) *In addition to the surcharge in subdivision (a), a surcharge*
 24 *of twenty dollars (\$20) is added to the total filing fee collected in*
 25 *a case pursuant to Section 26820.4, 26826, or 26827, a surcharge*
 26 *of twenty dollars (\$20) is added to the total filing fee collected in*
 27 *a limited civil case pursuant to Section 72055 or 72056 where the*
 28 *amount demanded, excluding attorney's fees and costs, is in excess*
 29 *of ten thousand dollars (\$10,000), and a surcharge of ten dollars*
 30 *(\$10) is added to the total filing fee collected in a limited civil case*
 31 *pursuant to Section 72055 or 72056 where the amount demanded,*
 32 *excluding attorney's fees and costs, is ten thousand dollars*
 33 *(\$10,000), or less. The surcharges in this subdivision shall be*
 34 *collected in cases filed from January 1, 2004, to June 30, 2004*
 35 *2005, inclusive. The purpose of this surcharge is to stabilize*
 36 *funding for court security at the current level and is not intended*
 37 *to increase the funding available for court security in the 2003-04*
 38 *2004-05 fiscal year. This subdivision shall become inoperative on*
 39 *July 1, 2005, or upon the enactment of a uniform filing fee,*
 40 *whichever is earlier.*

(c) Notwithstanding any other provision of law, the surcharges collected pursuant to subdivisions (a) and (b) shall all be deposited in a special account in the county treasury, and transmitted therefrom monthly to the ~~State~~ Controller for deposit in the Trial Court Trust Fund.

SEC. 62. *Section 69957 of the Government Code is amended to read:*

69957. Whenever an official reporter or an official reporter pro tempore is unavailable to report an action or proceeding in a court, subject to the availability of approved equipment and equipment monitors, the court may order that, in a limited civil case, or a misdemeanor or infraction case, the action or proceeding be electronically recorded, including all the testimony, the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all statements and remarks made and oral instructions given by the judge. A transcript derived from an electronic recording may be utilized whenever a transcript of court proceedings is required. The electronic recording device and appurtenant equipment shall be of a type approved by the Judicial Council for courtroom use *and shall only be purchased for use as provided by this section. A court shall not expend funds for electronic recording technology or equipment to make an unofficial record of an action or proceeding or to use that technology or equipment to make the official record of an action or proceeding in circumstances not authorized by this section.*

SEC. 63. *Section 69958 is added to the Government Code, to read:*

69958. *Each superior court shall report to the Judicial Council on or before October 1, 2004, and semiannually thereafter, and the Judicial Council shall report to the Legislature on or before December 31, 2004, and semiannually thereafter, regarding all purchases and leases of electronic recording equipment that will be used to record superior court proceedings, specifying all of the following:*

(a) *The Superior Court in which the equipment will be used.*

(b) *The types of trial court proceedings in which the equipment will be used.*

1 (c) *The cost of purchasing, leasing, or upgrading the*
2 *equipment.*

3 (d) *The type of equipment purchased or leased.*

4 SEC. 64. *Section 71601 of the Government Code is amended*
5 *to read:*

6 71601. For purposes of this chapter, the following definitions
7 shall apply:

8 (a) “Appointment” means the offer to and acceptance by a
9 person of a position in the trial court in accordance with this
10 chapter and the trial court’s personnel policies, procedures, and
11 plans.

12 (b) “Employee organization” means ~~any~~ *either of the*
13 *following:*

14 (1) *Any organization that includes trial court employees and*
15 *has as one of its primary purposes representing those employees*
16 *in their relations with—the that trial court.*

17 (2) *Any organization that seeks to represent trial court*
18 *employees in their relations with that trial court.*

19 (c) “Hiring” means appointment as defined in subdivision (a).

20 (d) “Mediation” means effort by an impartial third party to
21 assist in reconciling a dispute regarding wages, hours, and other
22 terms and conditions of employment between representatives of
23 the trial court and the recognized employee organization or
24 recognized employee organizations through interpretation,
25 suggestion, and advice.

26 (e) “Meet and confer in good faith” means that a trial court or
27 representatives as it may designate, and representatives of
28 recognized employee organizations, shall have the mutual
29 obligation personally to meet and confer promptly upon request by
30 either party and continue for a reasonable period of time in order
31 to exchange freely information, opinions, and proposals, and to
32 endeavor to reach agreement on matters within the scope of
33 representation. The process should include adequate time for the
34 resolution of impasses where specific procedures for resolution
35 are contained in this chapter or in a local rule, or when the
36 procedures are utilized by mutual consent.

37 (f) “Personnel rules,” “personnel policies, procedures, and
38 plans,” and “rules and regulations” mean policies, procedures,
39 plans, rules, or regulations adopted by a trial court or its designee

1 pertaining to conditions of employment of trial court employees,
2 subject to meet and confer in good faith.

3 (g) “Promotion” means promotion within the trial court as
4 defined in the trial court’s personnel policies, procedures, and
5 plans, subject to meet and confer in good faith.

6 (h) “Recognized employee organization” means an employee
7 organization that has been formally acknowledged to represent
8 trial court employees by the county under Sections 3500 to 3510,
9 inclusive, prior to the implementation date of this chapter, or by the
10 trial court under Rules 2201 to 2210, inclusive, of the California
11 Rules of Court, as those rules read on April 23, 1997, Sections
12 70210 to 70219, inclusive, or Article 3 (commencing with Section
13 71630) of this chapter.

14 (i) “Subordinate judicial officer” means an officer appointed
15 to perform subordinate judicial duties as authorized by Section 22
16 of Article VI of the California Constitution, including, but not
17 limited to, a court commissioner, probate commissioner, referee,
18 traffic referee, juvenile referee, and judge pro tempore.

19 (j) “Transfer” means transfer within the trial court as defined
20 in the trial court’s personnel policies, procedures, and plans,
21 subject to meet and confer in good faith.

22 (k) “Trial court” means a superior court or a municipal court.

23 (l) “Trial court employee” means a person who is both of the
24 following:

25 (1) Paid from the trial court’s budget, regardless of the funding
26 source. For the purpose of this paragraph, “trial court’s budget”
27 means funds from which the presiding judge of a trial court, or his
28 or her designee, has authority to control, authorize, and direct
29 expenditures, including, but not limited to, local revenues, all
30 grant funds, and trial court operations funds.

31 (2) Subject to the trial court’s right to control the manner and
32 means of his or her work because of the trial court’s authority to
33 hire, supervise, discipline, and terminate employment. For
34 purposes of this paragraph only, the “trial court” includes the
35 judges of a trial court or their appointees who are vested with or
36 delegated the authority to hire, supervise, discipline, and
37 terminate.

38 (m) A person is a “trial court employee” if and only if both
39 paragraphs (1) and (2) of subdivision (l) are true irrespective of job
40 classification or whether the functions performed by that person

are identified in Rule 810 of the California Rules of Court. The phrase “trial court employee” includes those subordinate judicial officers who satisfy paragraphs (1) and (2) of subdivision (l). The phrase “trial court employee” does not include temporary employees hired through agencies, jurors, individuals hired by the trial court pursuant to an independent contractor agreement, individuals for whom the county or trial court reports income to the Internal Revenue Service on a Form 1099 and does not withhold employment taxes, sheriffs, and judges whether elected or appointed. Any temporary employee, whether hired through an agency or not, shall not be employed in the trial court for a period exceeding 180 calendar days, except that for court reporters in a county of the first class, a trial court and a recognized employee organization may provide otherwise by mutual agreement in a memorandum of understanding or other agreement.

SEC. 65. Section 71630 of the Government Code is amended to read:

71630. (a) It is the purpose of this article to promote full communication between trial courts and their employees by providing a reasonable method ~~of~~ *for* resolving disputes regarding wages, hours, and other terms and conditions of employment between trial courts and recognized employee organizations. It is also the purpose of this article to promote the improvement of personnel management and employer-employee relations within the trial courts in the ~~State of California~~ *state* by providing a uniform basis for recognizing the right of trial court employees to join organizations of their own choice and *to* be represented by those organizations in their employment relations with trial courts. It is also the purpose of this article to extend to trial court employees the right, and to require trial courts, to meet and confer in good faith over matters within the scope of representation, consistent with the procedures set forth in this article. This article is not intended to require changes in existing representation units, memoranda of agreement or understanding, or court rules, except as provided in this article.

(b) *The Legislature finds and declares that the duties and responsibilities of trial court representatives under this article are substantially similar to the duties and responsibilities required under existing collective bargaining enforcement procedures and therefore the costs incurred by the trial court representatives in*

1 *performing those duties and responsibilities under this article are*
2 *not reimbursable as state-mandated costs.*

3 *SEC. 66. Section 71636 of the Government Code is amended*
4 *to read:*

5 71636. (a) A trial court may adopt reasonable rules and
6 regulations, after consultation in good faith with representatives of
7 ~~an~~ *a recognized* employee organization or organizations, for the
8 administration of employer-employee relations under this article.
9 These rules and regulations may include provisions for:

10 (1) Verifying that an organization does in fact represent
11 employees of the trial court.

12 (2) Verifying the official status of employee organization
13 officers and representatives.

14 (3) Recognition of employee organizations.

15 (4) Exclusive recognition of employee organizations formally
16 recognized pursuant to a vote of the employees of the trial court
17 or an appropriate unit thereof, subject to the right of an employee
18 to represent himself or herself as provided in Section 71631.

19 (5) Additional procedures for the resolution of disputes
20 involving wages, hours, and other terms and conditions of
21 employment.

22 (6) Access of employee organization officers and
23 representatives to work locations.

24 (7) Use of official bulletin boards and other means of
25 communication by employee organizations.

26 (8) Furnishing nonconfidential information pertaining to
27 employment relations to employee organizations.

28 (9) Any other matters as are necessary to carry out the purposes
29 of this article.

30 (b) Exclusive recognition of employee organizations formally
31 recognized as majority representatives pursuant to a vote of the
32 employees may be revoked by a majority vote of the employees
33 only after a period of not less than 12 months following the date
34 of recognition.

35 (c) No trial court shall unreasonably withhold recognition of
36 employee organizations. A trial court may not offer to provide
37 employees benefits of any kind for the purpose of inducing those
38 employees to decertify or withdraw support from a recognized
39 employee organization.



(d) Pursuant to the obligation to meet and confer in good faith, the trial court shall establish procedures to determine the appropriateness of any bargaining unit of court employees.

(e) *Trial court employees and employee organizations shall be able to challenge a rule or regulation of a trial court as a violation of this chapter.*

SEC. 67. Section 71639.1 of the Government Code is repealed.

~~71639.1. (a) Each trial court shall adopt a procedure to be used as a preliminary step before petitioning the superior court for relief pursuant to subdivision (c) or (d). The procedure may be mediation, arbitration, or a procedure before an administrative tribunal, such as the procedure established pursuant to Sections 71653 and 71654 for review of the decision of the hearing officer in evidentiary due process hearings. The establishment of the procedure shall be subject to the obligation to meet and confer in good faith. However, nothing in this section shall prohibit a party from seeking provisional relief, such as a stay, in any case in which provisional relief would otherwise be appropriate.~~

~~(b) In a trial court with 10 or more judges, if the trial court and a recognized employee organization reach an impasse regarding development of a procedure required pursuant to subdivision (a), the trial court shall adopt, on or before March 1, 2003, either nonbinding arbitration or a proceeding before the administrative tribunal, such as the procedure established pursuant to Sections 71653 and 71654, for review of the decision of the hearing officer in evidentiary due process or hearings.~~

~~(c) Notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, and except as required pursuant to Section 5 of Article VI of the California Constitution, any agreements reached pursuant to negotiations held pursuant to this article are binding on the parties and may be enforced by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure.~~

~~(d) Notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, if a trial court, a trial court employee, or an employee organization believes there has been a violation of this article, that party may petition the superior court for relief.~~

~~(e) The Judicial Council shall adopt rules of court to implement this hearing and appeal process. The rules of court shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear these matters, as specified in the rules of court, from which a single justice shall be assigned to hear the matter in the superior court. The rules of court shall provide that these matters shall be heard in the superior court and the court of appeal on an expedited basis, and to the extent permitted by law or rule of court, shall provide that any justice assigned to hear the matter in the superior court shall not be from the court of appeal district in which the action is filed, and shall provide that appeals in these matters shall be heard in the court of appeal district where the matter was filed.~~

~~(f) A complete alternative to the procedure outlined in subdivisions (e), (d), and (e) may be provided for by mutual agreement between a trial court and representatives of recognized employee organizations.~~

SEC. 68. Section 71639.1 is added to the Government Code, to read:

71639.1. (a) As used in this article, “board” means the Public Employment Relations Board established pursuant to Section 3541.

(b) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this article and shall include the authority as set forth in subdivisions (c) and (d). Included among the appropriate powers of the board are the power to order elections, to conduct any election the board orders, and to adopt rules to apply in areas where a trial court has no rule.

(c) A complaint alleging any violation of this article or of any rules and regulations adopted by a trial court pursuant to Section 71636 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this article, shall be a matter within the exclusive jurisdiction of the board. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this article and Section 71639.3. The board shall not issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge, except that if the rules and regulations adopted

1 *by a trial court require exhaustion of a remedy prior to filing an*
2 *unfair practice charge or the charging party chooses to exhaust a*
3 *trial court's remedy prior to filing an unfair practice charge, the*
4 *six-month limitation set forth in this subsection shall be tolled*
5 *during such reasonable amount of time it takes the charging party*
6 *to exhaust the remedy, but nothing herein shall require a charging*
7 *party to exhaust a remedy when that remedy would be futile.*

8 *(d) The board shall enforce and apply rules adopted by a trial*
9 *court concerning unit determinations, representation,*
10 *recognition, and elections.*

11 *(e) This section does not apply to employees designated as*
12 *management employees under Section 71637.1.*

13 *(f) The board shall not find it an unfair practice for an employee*
14 *organization to violate a rule or regulation adopted by a trial court*
15 *if that rule or regulation is itself in violation of this article.*

16 *SEC. 69. Section 71639.3 of the Government Code is*
17 *amended to read:*

18 *71639.3. (a) Trial courts and trial court employees are not*
19 *covered by Chapter 10 (commencing with Section 3500) of*
20 *Division 4 of Title 1, or any subsequent changes to these sections*
21 *except as provided in this article. However, where the language of*
22 *this article is the same or substantially the same as that contained*
23 *in Chapter 10 (commencing with Section 3500) of Division 4 of*
24 *Title 1, it shall be interpreted and applied in accordance with the*
25 *judicial interpretations of the same language.*

26 ~~*(b) A court decision interpreting or applying this article is not*~~
27 ~~*binding in cases or proceedings arising under Chapter 10*~~
28 ~~*(commencing with Section 3500) of Division 4 of Title 1.*~~

29 *SEC. 70. Section 71639.4 is added to the Government Code,*
30 *to read:*

31 *71639.4. (a) Any charging party, respondent, or intervenor*
32 *aggrieved by a final decision or order of the board in an unfair*
33 *practice case, except a decision of the board not to issue a*
34 *complaint in such a case, and any party to a final decision or order*
35 *of the board in a unit determination, representation, recognition,*
36 *or election matter that is not brought as an unfair practice case,*
37 *may petition for a writ of extraordinary relief from that decision or*
38 *order. A board order directing an election may not be stayed*
39 *pending judicial review.*

1 **(b)** A petition for a writ of extraordinary relief shall be filed in
2 the district court of appeal having jurisdiction over the county
3 where the events giving rise to the decision or order occurred. The
4 petition shall be filed within 30 days from the date of the issuance
5 of the board's final decision or order, or order denying
6 reconsideration, as applicable. Upon the filing of the petition, the
7 court shall cause notice to be served upon the board and thereafter
8 shall have jurisdiction of the proceeding. The board shall file in the
9 court the record of the proceeding, certified by the board, within
10 10 days after the clerk's notice unless that time is extended by the
11 court for good cause shown. The court shall have jurisdiction to
12 grant any temporary relief or restraining order it deems just and
13 proper, and in like manner to make and enter a decree enforcing,
14 modifying, and enforcing as modified, or setting aside in whole or
15 in part the decision or order of the board. The findings of the board
16 with respect to questions of fact, including ultimate facts, if
17 supported by substantial evidence on the record considered as a
18 whole, shall be conclusive. Title 1 (commencing with Section
19 1067) of Part 3 of the Code of Civil Procedure relating to writs
20 shall, except where specifically superseded by this section, apply
21 to proceedings pursuant to this section.

22 **(c)** If the time to petition for extraordinary relief from a board
23 decision or order has expired, the board may seek enforcement of
24 any final decision or order in a district court of appeal or superior
25 court having jurisdiction over the county where the events giving
26 rise to the decision or order occurred. The board shall respond
27 within 10 days to any inquiry from a party to the action as to why
28 the board has not sought court enforcement of the final decision or
29 order. If the response does not indicate that there has been
30 compliance with the board's final decision or order, the board shall
31 seek enforcement of the final decision or order upon the request of
32 the party. The board shall file in the court the record of the
33 proceeding, certified by the board, and appropriate evidence
34 disclosing the failure to comply with the decision or order. If, after
35 hearing, the court determines that the order was issued pursuant
36 to the procedures established by the board and that the person or
37 entity refuses to comply with the order, the court shall enforce the
38 order by writ of mandamus or other proper process. The court may
39 not review the merits of the order.



1 SEC. 71. Section 71639.5 is added to the Government Code,
2 to read:

3 71639.5. (a) Any written agreements reached through
4 negotiations held pursuant to this article are binding upon the
5 parties, upon adoption under Section 71634.3, and,
6 notwithstanding Sections 1085 and 1103 of the Code of Civil
7 Procedure requiring the issuance of a writ to an inferior tribunal,
8 any of those agreements may be enforced by petitioning the
9 superior court for relief pursuant to Section 1085 or 1103 of the
10 Code of Civil Procedure.

11 (b) Written agreements reached through negotiations held
12 pursuant to this article that contain provisions requiring the
13 arbitration of controversies arising out of the agreement shall be
14 subject to enforcement under Title 9 (commencing with Section
15 1280) of Part 3 of the Code of Civil Procedure.

16 (c) The Judicial Council shall adopt rules of court that shall
17 provide a mechanism for the establishment of a panel of court of
18 appeal justices who shall be qualified to hear petitions under Title
19 9 (commencing with Section 1280) of Part 3 of the Code of Civil
20 Procedure, and writ applications under Sections 1085 and 1103 of
21 the Code of Civil Procedure, and as specified in those rules, from
22 which a single justice shall be assigned to hear the matter in the
23 superior court. The rules of court shall provide that these matters
24 shall be heard in the superior court, and to the extent permitted by
25 law, shall provide that any justice assigned to hear the matter in
26 the superior court shall not be from the court of appeal district in
27 which the action is filed, and shall further provide that appeals in
28 such matters shall be heard in the court of appeal district where the
29 matter was filed.

30 SEC. 72. Section 71823 of the Government Code is amended
31 to read:

32 71823. (a) On or before April 1, 2003, the regional court
33 interpreter employment relations committee shall adopt
34 reasonable rules and regulations for the administration of
35 employer-employee relations under this chapter, which shall be
36 binding on the trial courts within the region. These rules shall
37 include provisions for all of the following:

38 (1) Verification that an organization represents employees of
39 the trial courts within the applicable region.

1 (2) Verification of the official status of employee organization
2 officers and representatives.

3 (3) Registration of employee organizations and recognition of
4 these organizations as representatives of interpreters employed by
5 the trial courts in the region.

6 (4) Establishment of a single, regional bargaining unit of all
7 court interpreters employed by the trial courts in the region,
8 including court interpreters pro tempore.

9 (5) Recognition of an employee organization as the exclusive
10 representative of all court interpreters employed by the trial courts
11 in the region, subject to the right of a court interpreter to represent
12 himself or herself, as provided in Section 71813, upon either of the
13 following:

14 (A) Presentation of a petition or cards with the signatures of 50
15 percent plus one of the court interpreters employed by the trial
16 courts in the region during the payroll period immediately prior to
17 the presentation of the cards or petition, including court
18 interpreters pro tempore, regardless of whether they have been
19 appointed to interpret during that payroll period, if they have
20 worked for the trial courts as independent contractors or
21 employees for at least 15 days in the six months prior to the filing
22 of the petition or cards with those signatures having been obtained
23 within one year prior to presentation of the petition or cards. A
24 signature shall be valid even if the interpreter was not yet an
25 employee at the time the petition or card was signed if the
26 interpreter had previously performed work for the trial courts as
27 an independent contractor, provided that the signature was
28 obtained no more than 90 days before the interpreter became an
29 employee. The results of a request for recognition under this
30 provision shall be certified within 10 days after presentation of the
31 cards or petition.

32 (B) Receipt by the employee organization of 50 percent plus
33 one of the votes cast at a secret ballot representation election
34 conducted by mail. A representation election shall be held within
35 30 days after presentation of a 30-percent or greater showing of
36 interest from employees eligible to vote in the representation
37 election by means of a petition or cards supported by signatures
38 obtained within one year prior to the presentation of the petitions
39 or cards. A signature shall be valid even if the interpreter was not
40 yet an employee at the time the petition or card was signed if the

1 interpreter had previously performed work for the trial courts as
 2 an independent contractor, provided that the signature was
 3 obtained no more than 90 days before the interpreter became an
 4 employee. All certified and registered interpreters employed by
 5 the trial courts in the payroll period immediately prior to the
 6 election, including court interpreters pro tempore, shall be eligible
 7 to vote in the election, regardless of whether they have been
 8 appointed to interpret during that payroll period, so long as they
 9 have worked for the trial courts as independent contractors or
 10 employees for at least 15 days in the six months prior to the filing
 11 of the petition or cards. A list of eligible voters shall be provided
 12 to the employee organization within 10 days after submission of
 13 the petition or cards. Certification of the results of a representation
 14 election shall occur within 30 days after the election is concluded.

15 (6) Procedures for the resolution of disputes involving wages,
 16 hours, and other terms and conditions of employment.

17 (7) Access of employee organization officers and
 18 representatives to work locations.

19 (8) Use of official bulletin boards and other means of
 20 communication by employee organizations.

21 (9) Furnishing nonconfidential information pertaining to
 22 employment relations to an employee organization.

23 (10) Revocation of recognition of an employee organization
 24 formally recognized as majority representative pursuant to a vote
 25 of the employees by a majority vote of the employees only after
 26 a period of not less than 12 months following the date of
 27 recognition. A vote shall be requested by a petition or cards signed
 28 by at least 30 percent of the employees within the bargaining unit,
 29 with those signatures having been obtained within one year prior
 30 to presentation of the petition or cards.

31 (11) Any other matters that are necessary to carry out the
 32 purposes of this chapter.

33 (b) If there is a recognized employee organization in the region,
 34 the regional court interpreter employment relations committee
 35 may amend the reasonable rules and regulations adopted pursuant
 36 to subdivision (a) by adopting reasonable rules and regulations,
 37 after meeting and conferring in good faith, for the administration
 38 of employer-employee relations under this chapter, which shall be
 39 binding on the trial courts within the region.

1 (c) *Interpreters and recognized employee organizations shall*
2 *be able to challenge a rule or regulation of the regional court*
3 *interpreter employment relations committee or a trial court as a*
4 *violation of this chapter.*

5 SEC. 73. *Section 71825 of the Government Code is repealed.*

6 ~~71825. (a) Each regional court interpreter employment~~
7 ~~relations committee shall adopt a procedure to be used as a~~
8 ~~preliminary step before petitioning the superior court for relief~~
9 ~~pursuant to subdivision (b) or (c). The procedure may be~~
10 ~~mediation, arbitration, or a procedure before an administrative~~
11 ~~tribunal, such as the procedure established pursuant to Sections~~
12 ~~71653 and 71654 for review of the decision of the hearing officer~~
13 ~~in evidentiary due process hearings. The establishment of the~~
14 ~~procedure shall be subject to the obligation to meet and confer in~~
15 ~~good faith. However, nothing in this section shall prohibit a party~~
16 ~~from seeking provisional relief, such as a stay, in any case in which~~
17 ~~provisional relief would otherwise be appropriate.~~

18 ~~(b) Notwithstanding Sections 1085 and 1103 of the Code of~~
19 ~~Civil Procedure requiring the issuance of a writ to an inferior~~
20 ~~tribunal, and except as required pursuant to Section 5 of Article VI~~
21 ~~of the California Constitution, any agreements reached pursuant~~
22 ~~to negotiations held pursuant to this chapter are binding on the~~
23 ~~parties and may be enforced by petitioning the superior court for~~
24 ~~relief pursuant to Section 1085 or 1103 of the Code of Civil~~
25 ~~Procedure.~~

26 ~~(c) Notwithstanding Sections 1085 and 1103 of the Code of~~
27 ~~Civil Procedure requiring the issuance of a writ to an inferior~~
28 ~~tribunal, if a regional court interpreter employment relations~~
29 ~~committee, a trial court, a court interpreter employed by a trial~~
30 ~~court, or an employee organization believes there has been a~~
31 ~~violation of this chapter, that party may petition the superior court~~
32 ~~for relief.~~

33 ~~(d) The hearing and appeal process shall be governed by the~~
34 ~~rules of court adopted by the Judicial Council pursuant to Section~~
35 ~~71639.1.~~

36 ~~(e) A complete alternative to the procedure outlined in~~
37 ~~subdivisions (b), (c), and (d) may be provided for by mutual~~
38 ~~agreement between a regional court interpreter employment~~
39 ~~relations committee and representatives of a recognized employee~~
40 ~~organization.~~

~~(f) A court decision interpreting or applying this chapter is not binding in cases or proceedings arising under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1.~~

SEC. 74. Section 71825 is added to the Government Code, to read:

71825. (a) As used in this section, “board” means the Public Employment Relations Board established pursuant to Section 3541.

(b) The powers and duties of the board described in Section 3541.3 shall also apply, as appropriate, to this chapter and shall include the authority as set forth in subdivisions (c) and (d). Included among the appropriate powers of the board are the power to order elections, to conduct any election the board orders, and to adopt rules to apply in areas where a regional court interpreter employment relations committee has no rule.

(c) A complaint alleging any violation of this chapter or of any rules and regulations adopted by a regional court interpreter employment relations committee pursuant to Section 71823 shall be processed as an unfair practice charge by the board. The initial determination as to whether the charge of unfair practice is justified and, if so, the appropriate remedy necessary to effectuate the purposes of this chapter, shall be a matter within the exclusive jurisdiction of the board. The board shall apply and interpret unfair labor practices consistent with existing judicial interpretations of this chapter and Section 71826(b). The board shall not issue a complaint in respect of any charge based upon an alleged unfair practice occurring more than six months prior to the filing of the charge, except that if the rules and regulations adopted by a regional court interpreter employment relations committee require exhaustion of a remedy prior to filing an unfair practice charge or the charging party chooses to exhaust a regional court interpreter employment relations committee’s remedy prior to filing an unfair practice charge, the six-month limitation set forth in this subsection shall be tolled during such reasonable amount of time it takes the charging party to exhaust the remedy, but nothing herein shall require a charging party to exhaust a remedy when that remedy would be futile.

(d) The board shall enforce and apply rules adopted by a regional court interpreter employment relations committee

1 concerning unit determinations, representation, recognition, and
2 elections.

3 (e) This section does not apply to employees designated as
4 management employees.

5 (f) The board shall not find it an unfair practice for an employee
6 organization to violate a rule or regulation adopted by a regional
7 court interpreter employment relations committee if that rule or
8 regulation is itself in violation of this chapter.

9 SEC. 75. Section 71825.1 is added to the Government Code,
10 to read:

11 71825.1. (a) Any charging party, respondent, or intervenor
12 aggrieved by a final decision or order of the board in an unfair
13 practice case, except a decision of the board not to issue a
14 complaint in such a case, and any party to a final decision or order
15 of the board in a unit determination, representation, recognition,
16 or election matter that is not brought as an unfair practice case,
17 may petition for a writ of extraordinary relief from that decision or
18 order. A board order directing an election may not be stayed
19 pending judicial review.

20 (b) A petition for a writ of extraordinary relief shall be filed in
21 the district court of appeal having jurisdiction over the county
22 where the events giving rise to the decision or order occurred. The
23 petition shall be filed within 30 days from the date of the issuance
24 of the board's final decision or order, or order denying
25 reconsideration, as applicable. Upon the filing of the petition, the
26 court shall cause notice to be served upon the board and thereafter
27 shall have jurisdiction of the proceeding. The board shall file in the
28 court the record of the proceeding, certified by the board, within
29 10 days after the clerk's notice unless that time is extended by the
30 court for good cause shown. The court shall have jurisdiction to
31 grant any temporary relief or restraining order it deems just and
32 proper, and in like manner to make and enter a decree enforcing,
33 modifying, and enforcing as modified, or setting aside in whole or
34 in part the decision or order of the board. The findings of the board
35 with respect to questions of fact, including ultimate facts, if
36 supported by substantial evidence on the record considered as a
37 whole, shall be conclusive. Title 1 (commencing with Section
38 1067) of Part 3 of the Code of Civil Procedure relating to writs
39 shall, except where specifically superseded by this section, apply
40 to proceedings pursuant to this section.

(c) *If the time to petition for extraordinary relief from a board decision or order has expired, the board may seek enforcement of any final decision or order in a district court of appeal or superior court having jurisdiction over the county where the events giving rise to the decision or order occurred. The board shall respond within 10 days to any inquiry from a party to the action as to why the board has not sought court enforcement of the final decision or order. If the response does not indicate that there has been compliance with the board's final decision or order, the board shall seek enforcement of the final decision or order upon the request of the party. The board shall file in the court the record of the proceeding, certified by the board, and appropriate evidence disclosing the failure to comply with the decision or order. If, after hearing, the court determines that the order was issued pursuant to the procedures established by the board and that the person or entity refuses to comply with the order, the court shall enforce the order by writ of mandamus or other proper process. The court may not review the merits of the order.*

SEC. 76. *Section 71825.2 is added to the Government Code, to read:*

71825.2. (a) *Any written agreements reached through negotiations held pursuant to this article are binding upon the parties, upon adoption under Section 71819, and, notwithstanding Sections 1085 and 1103 of the Code of Civil Procedure requiring the issuance of a writ to an inferior tribunal, any of those agreements may be enforced by petitioning the superior court for relief pursuant to Section 1085 or 1103 of the Code of Civil Procedure.*

(b) *Written agreements reached through negotiations held pursuant to this article that contain provisions requiring the arbitration of controversies arising out of the agreement, shall be subject to enforcement under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.*

(c) *The Judicial Council shall adopt rules of court that shall provide a mechanism for the establishment of a panel of court of appeal justices who shall be qualified to hear petitions under Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure, and writ applications under Sections 1085 and 1103 of the Code of Civil Procedure, and as specified in those rules, from which a single justice shall be assigned to hear the matter in the*

1 superior court. The rules of court shall provide that these matters
2 shall be heard in the superior court and, to the extent permitted by
3 law, shall provide that any justice assigned to hear the matter in
4 the superior court shall not be from the court of appeal district in
5 which the action is filed, and shall further provide that appeals in
6 those matters shall be heard in the court of appeal district where
7 the matter was filed.

8 SEC. 77. Section 77202 of the Government Code is amended
9 to read:

10 77202. (a) The Legislature shall make an annual
11 appropriation to the Judicial Council for the general operations of
12 the trial courts based on the request of the Judicial Council. The
13 Judicial Council's trial court budget request, *which shall be*
14 *submitted to the Governor and the Legislature*, shall meet the
15 needs of all trial courts in a manner ~~which~~ *that ensures a*
16 *predictable fiscal environment for labor negotiations in*
17 *accordance with the Trial Court Employment Protection and*
18 *Governance Act, that promotes equal access to the courts*
19 *statewide. The, and that promotes court financial accountability.*
20 *The annual budget request shall include the following*
21 *components:*

22 (1) *In order to ensure that trial court funding is not eroded and*
23 *that sufficient funding is provided to trial courts to be able to*
24 *accommodate increased costs without degrading the quantity or*
25 *quality of court services, a base funding adjustment for operating*
26 *costs shall be included that is computed based upon the*
27 *year-to-year percentage change in the annual state appropriations*
28 *limit. For purposes of this adjustment, operating costs include, but*
29 *are not limited to, all expenses for court operations and court*
30 *employee salaries and salary-driven benefits, but do not include*
31 *the costs of compensation for judicial officers, subordinate*
32 *judicial officers, or funding for the assigned judges program.*

33 (2) *Nondiscretionary costs necessitated by law or county*
34 *government that exceed the annual state appropriations limit and*
35 *other adjustments required to accommodate other operational and*
36 *programmatic changes shall be separately identified and justified*
37 *through the annual budget process.*

38 (b) *The Judicial Council shall allocate the appropriation to the*
39 *trial courts in a manner that best ensures the ability of the courts*
40 *to carry out their functions, promotes implementation of statewide*

1 policies, and promotes the immediate implementation of
2 efficiencies and cost-saving measures in court operations, in order
3 to guarantee access to justice to citizens of the state.

4 The Judicial Council shall ensure that its trial court budget
5 request and the allocations made by it reward each trial court's
6 implementation of efficiencies and cost-saving measures.

7 These efficiencies and cost-saving measures shall include, but
8 not be limited to, the following:

9 (1) The sharing or merger of court support staff among trial
10 courts across counties.

11 (2) The assignment of any type of case to a judge for all
12 purposes commencing with the filing of the case and regardless of
13 jurisdictional boundaries.

14 (3) The establishment of a separate calendar or division to hear
15 a particular type of case.

16 (4) In rural counties, the use of all court facilities for hearings
17 and trials of all types of cases and the acceptance of filing
18 documents in any case.

19 (5) The use of alternative dispute resolution programs, such as
20 arbitration.

21 (6) The development and use of automated accounting and
22 case-processing systems.

23 ~~(b)~~

24 (c) (1) The Judicial Council shall adopt policies and
25 procedures governing practices and procedures for budgeting in
26 the trial courts in a manner that best ensures the ability of the courts
27 to carry out their functions and may delegate the adoption to the
28 Administrative Director of the Courts. The Administrative
29 Director of the Courts shall establish budget procedures and an
30 annual schedule of budget development and management
31 consistent with these rules.

32 (2) The Trial Court Policies and Procedures shall specify the
33 process for a court to transfer existing funds between or among the
34 budgeted program components to reflect changes in the court's
35 planned operation or to correct technical errors. If the process
36 requires a trial court to request approval of a specific transfer of
37 existing funds, the Administrative Office of the Courts shall
38 review the request to transfer funds and respond within 30 days of
39 receipt of the request. The Administrative Office of the Courts
40 shall respond to the request for approval or denial to the affected

1 court, in writing, with copies provided to the Department of
2 Finance, the Legislative Analyst Office, the Legislature's budget
3 committees, and the court's affected labor organizations.

4 (3) The Judicial Council shall circulate for comment to all
5 affected entities any amendments proposed to the Trial Court
6 Policies and Procedures as they relate to budget monitoring and
7 reporting. Final changes shall be adopted at a meeting of the
8 Judicial Council.

9 *SEC. 78. Section 13138 is added to the Health and Safety*
10 *Code, to read:*

11 *13138. (a) For state agencies, departments, or programs that*
12 *are charged for the costs of fire and life safety building code*
13 *inspections rendered by the State Fire Marshal, the State Fire*
14 *Marshal shall charge an amount sufficient to recover the costs*
15 *incurred for the fire and life safety building code inspections.*

16 *(b) Upon the request of the State Fire Marshal, in the form*
17 *prescribed by the Controller, the Controller shall transfer the*
18 *amount of the charges for services rendered from the agency's*
19 *appropriation to the appropriation for the support of the State Fire*
20 *Marshal's office.*

21 *(c) A state agency that has a dispute regarding charges for fire*
22 *and life safety building code inspections provided by the State Fire*
23 *Marshal shall notify the State Fire Marshal, in writing, of the*
24 *dispute and the basis therefor. The State Fire Marshal shall*
25 *immediately provide a credit to the state agency in the subsequent*
26 *billing or billings for the amount of the charges in dispute. No*
27 *further transfer of funds shall occur with respect to the services for*
28 *which charges are disputed until the dispute is resolved by the State*
29 *Fire Marshal, subject to the approval of the Department of*
30 *Finance.*

31 *SEC. 79. Section 50710.1 of the Health and Safety Code is*
32 *amended to read:*

33 *50710.1. (a) If all the development costs of any migrant farm*
34 *labor center assisted pursuant to this chapter are provided by*
35 *federal, state, or local grants, and if inadequate funds are available*
36 *from any federal, state, or local service to write-down operating*
37 *costs, the department may approve rents for that center ~~which are~~*
38 *in excess of rents charged in other centers assisted by the Office of*
39 *Migrant Services. However, ~~prior~~ notwithstanding any other*
40 *provision of law, commencing with the 2005 growing season, the*

department shall not increase rents for residents of any Office of Migrant Services facility to a level that exceeds 30 percent of the average annualized household incomes of residents of the facility without specific legislative authorization. Prior to approving these rents, the department shall consider the adequacy of evidence presented by the entity operating the center that the rents reimburse actual, reasonable, and necessary costs of operation. The department may not increase any rent charged at a migrant farm labor center during the 2003-04 fiscal year.

(b) At the end of each fiscal year, any entity operating a migrant farm labor center pursuant to this chapter may establish a reserve account comprised of the excess funds provided through the annual operating contract received from the department, if the department certifies there is no need to address reasonable general maintenance requirements or repairs, rehabilitation, and replacement needs of the requesting migrant farm labor center which affect the immediate health and safety of residents. The cumulative balance of the reserve account shall not exceed 10 percent of the annual operating funds annually committed to the entity by the department. Funds in the reserve account shall be used only for capital improvements such as replacing or repairing structural elements, furniture, fixtures, or equipment of the migrant farm labor center, the replacement or repair of which are reasonably required to preserve the migrant farm labor center. Withdrawals from the reserve account shall be made only upon the written approval of the department of the amount and nature of expenditures.

(c) A migrant farm labor center governed by this chapter may be operated for an extended period beyond 180 days after approval by the department, provided that all of the following conditions are satisfied:

(1) No additional subsidies provided by the department are used for the operation or administration of the migrant farm center during the extended occupancy period except to the extent that state funds are appropriated or authorized for the purpose of funding all or part of the cost of subsidizing extended occupancy periods during the first 14 days only.

(2) Rents are not to be increased above the rents charged during the period immediately prior to the extended occupancy period unless the department finds that an increase is necessary to cover

1 the difference between reasonable operating costs necessary to
2 keep the center open during the extended occupancy period and the
3 amount of state funds available pursuant to paragraph (1) and any
4 contributions from agricultural employers or other federal, local,
5 or private sources. These contributions shall not be used to reduce
6 the amount of state funds that otherwise would be made available
7 to the center to subsidize rents during an extended occupancy
8 period.

9 (3) In no event shall the rent during the extended occupancy
10 period exceed the average daily operating cost of the center, less
11 any subsidy funds available pursuant to paragraph (1) or (2).
12 Households representing at least 25 percent of the units in the
13 center shall have indicated their desire and intention to remain in
14 residency during an extended occupancy period by signing a
15 petition to the local entity to keep the center open for an extended
16 period at rents that are the same or higher than rents during the
17 regular period of occupancy. Each household shall receive a clear
18 bilingual notice describing the extended occupancy options
19 attached to the lease.

20 The Legislature finds and declares that because the number of
21 residents may be substantially reduced during the extended
22 occupancy period, a rent increase may be necessary to cover
23 operating costs. It is the intent of the Legislature that the public
24 sector, private sector, and farmworkers should each play an
25 important role in ensuring the financial viability of this important
26 source of needed housing.

27 (4) An extended occupancy period is requested by an entity
28 operating the migrant farm labor center and received by the
29 department no earlier than 30 days and no later than 15 days prior
30 to the center's scheduled closing date. The department shall notify
31 the entity and petitioning residents of the final decision no later
32 than seven days prior to the center's scheduled closing date.
33 During the extended occupancy period, occupancy shall be limited
34 to migrant farmworkers and their families who resided at a migrant
35 center during the regular period of occupancy.

36 (5) Before approving or denying an extension and establishing
37 the rents for the extended occupancy period, both of which shall
38 be within the sole discretion of the department, the department
39 shall take into consideration all of the following factors:



1 (A) The structural and physical condition of the center,
2 including water and sewer pond capacity and the capacity and
3 willingness of the local entity to operate the center during the
4 extended occupancy period.

5 (B) Whether local approvals are required, and whether there
6 are competing demands for the use of the center's facilities.

7 (C) Whether there is adequate documentation that there is a
8 need for residents of the migrant center to continue work in the
9 area, as confirmed by the local entity.

10 (D) The climate during the extended occupancy period.

11 (E) The amount of subsidy funds available that can be allocated
12 to each center to subsidize rents below the operating costs and the
13 cost of operating each center during the extended occupancy
14 period.

15 (F) The extended occupancy period is deemed necessary for
16 the health and safety of the migrant farmworkers and their
17 families.

18 (G) Other relevant factors affecting the migrant farmworkers
19 and their families and the operation of the centers.

20 (6) The rents collected during the extended occupancy period
21 shall be remitted to the department. However, based on financial
22 records to the satisfaction of the department, the department may
23 reduce the amount to be remitted by an amount it determines the
24 local entity has expended during the extended occupancy period
25 that is not being reimbursed by department funds.

26 (7) The occupancy during the extended occupancy period
27 represents a new tenancy and is not subject to existing and
28 statutory and regulatory limitations governing rents. Prior to the
29 beginning of the extended occupancy period, residents shall be
30 provided at least two days' advance written notice of any rent
31 increase and of the expected length of the extended occupancy
32 period, including the scheduled date of closure of the center, and
33 prior to being eligible for residency during the extended
34 occupancy period, residents shall sign rental documents deemed
35 necessary by the department.

36 (d) The Legislature finds and declares that variable annual
37 climates and changing agricultural techniques create an inability
38 to accurately predict the end of a harvest season for the purposes
39 of housing migrant farmworkers and their families. Because of
40 these factors, in any part of this state, and in any specific year, one

1 or more migrant farmworker housing centers governed by this
2 chapter need to remain open for up to two additional weeks to
3 allow the residents to provide critical assistance to growers in
4 harvesting crops while also fulfilling work expectations that
5 encouraged them to migrate to the areas of the centers. In addition,
6 if the centers close prematurely, the migrant farmworkers often
7 must remain in the areas to work for up to two weeks. During this
8 time they will not be able to obtain decent, safe, and affordable
9 housing and the health and safety of their families and the
10 surrounding community will be threatened.

11 The Legislature therefore finds and declares that, for the
12 purposes of any public or private right, obligation, or authorization
13 related to the use of property and improvements thereon as a
14 180-day migrant center, an extended use of any housing center
15 governed by this chapter pursuant to this section is deemed to be
16 the same as the 180-day use generally authorized by this chapter.

17 *SEC. 80. Section 53533 of the Health and Safety Code is*
18 *amended to read:*

19 53533. (a) Money deposited in the fund from the sale of
20 bonds pursuant to this part shall be allocated for expenditure in
21 accordance with the following schedule:

22 (1) Nine hundred ten million dollars (\$910,000,000) shall be
23 transferred to the Housing Rehabilitation Loan Fund to be
24 expended for the Multifamily Housing Program authorized by
25 Chapter 6.7 (commencing with Section 50675) of Part 2, except
26 for the following:

27 (A) Fifty million dollars (\$50,000,000) shall be transferred to
28 the Preservation Opportunity Fund and, notwithstanding Section
29 13340 of the Government Code, is continuously appropriated
30 without regard to fiscal years for the preservation of at-risk
31 housing pursuant to Chapter 5 (commencing with Section 50600)
32 of Part 2.

33 (B) Twenty million dollars (\$20,000,000) shall be used for
34 nonresidential space for supportive services, including, but not
35 limited to, job training, health services, and child care within, or
36 immediately proximate to, projects to be funded under the
37 Multifamily Housing Program. This funding shall be in addition
38 to any applicable per-unit or project loan limits and may be in the
39 form of a grant. Service providers shall ensure that services are



1 available to project residents on a priority basis over the general
2 public.

3 (C) Twenty-five million dollars (\$25,000,000) shall be used for
4 matching grants to local housing trust funds pursuant to Section
5 50843.

6 (D) Fifteen million dollars (\$15,000,000) shall be used for
7 student housing through the Multifamily Housing Program,
8 subject to the following provisions:

9 (i) The department shall give first priority for projects on land
10 owned by a University of California or California State University
11 campus. Second priority shall be given to projects located within
12 one mile of a University of California or California State
13 University campus that is suffering from a severe shortage of
14 housing and limited availability of developable land as determined
15 by the department. Those determinations shall be set forth in the
16 Notice of Funding Availability and shall not be subject to the
17 requirements of Chapter 3.5 (commencing with Section 11340) of
18 Part 1 of Title 2 of the Government Code.

19 (ii) All funds shall be matched on a one-to-one basis from
20 private sources or by the University of California or California
21 State University. For the purposes of this subparagraph,
22 “University of California” includes the Hastings College of the
23 Law.

24 (iii) Occupancy for the units shall be restricted to students
25 enrolled on a full-time basis in the University of California or
26 California State University.

27 (iv) Income eligibility pursuant to the Multifamily Housing
28 Program shall be established by verification of the combined
29 income of the student and his or her family.

30 (v) Any funds not used for this purpose within 24 months of the
31 date that the funds are made available shall be awarded pursuant
32 to subdivision (a) for the Downtown Rebound Program as set forth
33 in paragraph (1) of subdivision (c) of Section 50898.2.

34 (E) Any funds not encumbered for the purposes set forth in this
35 paragraph, except subparagraph (D), within 30 months of
36 availability shall revert to the Housing Rehabilitation Loan Fund
37 created by Section 50661 for general use in the Multifamily
38 Housing Program.

39 (2) One hundred ninety-five million dollars (\$195,000,000)
40 shall be transferred to the Emergency Housing and Assistance

1 Fund to be expended for the Emergency Housing and Assistance
2 Program authorized by Chapter 11.5 (commencing with Section
3 50800 of Part 2).

4 (3) One hundred ninety-five million dollars (\$195,000,000)
5 shall be transferred to the Housing Rehabilitation Loan Fund to be
6 expended for supportive housing projects under the Multifamily
7 Housing Program authorized by Chapter 6.7 (commencing with
8 Section 50675) of Part 2, to serve individuals and households
9 moving from emergency shelters or transitional housing or those
10 at risk of homelessness.

11 (4) Two hundred million dollars (\$200,000,000) shall be
12 transferred to the Joe Serna, Jr. Farmworker Housing Grant Fund
13 to be expended for farmworker housing programs authorized by
14 Chapter 3.2 (commencing with Section 50517.5) of Part 2, except
15 for the following:

16 (A) Twenty-five million dollars (\$25,000,000) shall be used
17 for projects that serve migratory agricultural workers as defined in
18 subdivision (i) of Section 7602 of Title 25 of the California Code
19 of Regulations. If, after July 1, 2003, funds remain after the
20 approval of all feasible applications, the department shall be
21 deemed an eligible recipient for the purposes of reconstructing
22 migrant centers operated through the Office of Migrant Services
23 pursuant to Chapter 8.5 (commencing with Section 50710) that
24 would otherwise be scheduled for closure due to health or safety
25 considerations or are in need of significant repairs to ensure the
26 health and safety of the residents. Of the dollars allocated by this
27 section, the department shall receive ~~four million one hundred~~
28 ~~thousand dollars (\$4,100,000)~~ *five million five hundred thousand*
29 *dollars (\$5,500,000)* for these purposes.

30 (B) Twenty million dollars (\$20,000,000) shall be used for
31 developments that also provide health services to the residents.
32 Recipients of these funds shall be required to provide ongoing
33 monitoring of funded developments to ensure compliance with the
34 requirements of the Joe Serna, Jr. Farmworker Housing Grant
35 Program. Projects receiving funds through this allocation shall be
36 ineligible for funding through the Joe Serna, Jr. Farmworker
37 Housing Grant Program.

38 (C) Any funds not encumbered for the purposes set forth in this
39 paragraph within 30 months of availability shall revert for general
40 use in the Joe Serna, Jr. Farmworker Housing Grant Program.



(5) Two hundred five million dollars (\$205,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 13340 of the Government Code and Section 50697.1, these funds are hereby continuously appropriated without regard to fiscal years to the department to be expended for the purposes of the CalHome Program authorized by Chapter 6 (commencing with Section 50650) of Part 2, except for the following:

(A) Seventy-five million dollars (\$75,000,000) shall be transferred to the Building Equity and Growth in Neighborhoods Fund to be used for the Building Equity and Growth in Neighborhoods (BEGIN) Program pursuant to Chapter 4.5 (commencing with Section 50860) of Part 1.

(B) Five million dollars (\$5,000,000) shall be used to provide grants to cities, counties, cities and counties, and nonprofit organizations to provide grants for lower income tenants with disabilities for the purpose of making exterior modifications to rental housing in order to make that housing accessible to persons with disabilities. For the purposes of this subparagraph, “exterior modifications” includes modifications that are made to entryways or to common areas of the structure or property. The program provided for under this subparagraph shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code.

(C) Ten million dollars (\$10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.

(D) Any funds not encumbered for the purposes set forth in this paragraph within 30 months of availability shall revert for general use in the CalHome Program.

(6) Five million dollars (\$5,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for capital expenditures in support of local code enforcement and compliance programs. This allocation shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Title 2 of the Government Code. If the moneys allocated pursuant to this paragraph are not expended within three years after being transferred, the department may, in its discretion, transfer the moneys to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program.

(7) Two hundred ninety million dollars (\$290,000,000) shall be transferred to the Self-Help Housing Fund. Notwithstanding Section 50697.1, these funds are hereby continuously appropriated to the agency to be expended for the purposes of the California Homebuyer's Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3, except for the following:

(A) Fifty million dollars (\$50,000,000) shall be transferred to the School Facilities Fee Assistance Fund as provided by subdivision (a) of Section 51453 to be used for the Homebuyer Down Payment Assistance Program of 2002 established by Section 51451.5.

(B) Eighty-five million dollars (\$85,000,000) shall be transferred to the California Housing Loan Insurance Fund to be used for purposes of Part 4 (commencing with Section 51600). The agency may transfer these moneys as often as quarterly in amounts that shall not exceed the dollar amount of new insurance written by the agency during the preceding quarter for loans for the purchase of homes made to owner-occupant borrowers with incomes not exceeding 120 percent of the area median income, divided by the risk-to-capital ratio required for the maintenance of satisfactory credit ratings from nationally recognized credit rating services.

(C) (i) Twelve million five hundred thousand dollars (\$12,500,000) shall be reserved for downpayment assistance to low-income first-time home buyers who, as documented to the agency by a nonprofit organization certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization and who has received home ownership counseling from the nonprofit organization. Community revitalization areas shall be limited to targeted neighborhoods identified by qualified nonprofit organizations as those neighborhoods in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families.

(ii) Effective January 1, 2004, 50 percent of the funds available pursuant to clause (i) shall be available for downpayment

1 assistance in an amount not to exceed 6 percent of the home sales
2 price.

3 (iii) After 12 months of availability, if more than 50 percent of
4 the funds set aside pursuant to clause (ii) have been encumbered,
5 the agency shall discontinue that program and make all remaining
6 funds available for downpayment assistance pursuant to clause (i).
7 If, however, less than 50 percent of the funds allocated pursuant
8 to clause (ii) are encumbered after that 12-month period, the
9 agency may, at its sole discretion, either make all remaining funds
10 provided pursuant to clause (i) available for the purpose of clause
11 (ii), or may continue to implement clause (ii) until all of the funds
12 allocated for that purpose as of January 1, 2004, have been
13 encumbered.

14 (D) Twenty-five million dollars (\$25,000,000) shall be used
15 for downpayment assistance pursuant to Section 51505. After 18
16 months of availability, if the agency determines that the funds set
17 aside pursuant to this section will not be utilized for purposes of
18 Section 51505, these funds shall be available for the general use
19 of the agency for the purposes of the California Homebuyer's
20 Downpayment Assistance Program, but may also continue to be
21 available for the purposes of Section 51505.

22 (E) Funds not utilized for the purposes set forth in
23 subparagraphs (B) and (C) within 30 months shall revert for
24 general use in the California Homebuyer's Downpayment
25 Assistance Program.

26 (8) One hundred million dollars (\$100,000,000) shall be
27 transferred to the Jobs Housing Improvement Account to be
28 expended as capital grants to local governments for increasing
29 housing pursuant to enabling legislation. If the enabling
30 legislation fails to become law in the 2001–02 Regular Session of
31 the Legislature, the specified allocation for this program shall be
32 void and the funds shall revert for general use in the Multifamily
33 Housing Program as specified in paragraph (1) of subdivision (a).

34 (b) No portion of the money allocated pursuant to this section
35 may be expended for project operating costs, except that this
36 section does not preclude expenditures for operating costs from
37 reserves required to be maintained by or on behalf of the project
38 sponsor.

39 (c) The Legislature may, from time to time, amend the
40 provisions of law related to programs to which funds are, or have

1 been, allocated pursuant to this section for the purpose of
2 improving the efficiency and effectiveness of the program, or for
3 the purpose of furthering the goals of the program.

4 (d) The Bureau of State Audits shall conduct periodic audits to
5 ensure that bond proceeds are awarded in a timely fashion and in
6 a manner consistent with the requirements of this part, and that
7 awardees of bond proceeds are using funds in compliance with
8 applicable provisions of this part.

9 *SEC. 81. Section 2065 of the Labor Code is amended to read:*

10 2065. (a) ~~(1) The Car Wash Worker Restitution Fund is~~
11 ~~established in the State Treasury. Fifty dollars (\$50) of each~~
12 ~~registrant's~~

13 *(1) The following moneys shall be deposited into this fund:*

14 *(A) The annual registration fee required pursuant to subdivision*
15 *(b) of Section 2059 shall be deposited into this fund. In addition,*
16 *50.*

17 *(B) Fifty percent of the fines collected pursuant to Section 2064*
18 *shall be deposited into the fund.*

19 *(C) Fifty dollars (\$50) of the initial registration fee required*
20 *pursuant to subdivision (a) of Section 2059.*

21 ~~(2) Moneys from~~ *Upon appropriation by the Legislature, the*
22 *moneys in the fund shall be disbursed, upon appropriation by the*
23 ~~Legislature,~~ *by the commissioner only to persons determined by*
24 *the commissioner to have been damaged by the failure to pay*
25 *wages and penalties and other related damages by any employer,*
26 *to ensure the payment of wages and penalties and other related*
27 *damages. Any disbursed funds subsequently recovered by the*
28 *commissioner shall be returned to the fund.*

29 ~~(3) The Department of Industrial Relations may establish~~
30 ~~through regulation any procedures necessary to carry out the~~
31 ~~provisions of this section.~~

32 (b) The Car Wash Worker Fund is established in the State
33 Treasury.

34 *(1) The following moneys shall be deposited into this fund:*

35 *(A) Fifty percent of the fines collected pursuant to Section*
36 *2064.*

37 *(B) The initial registration fee required pursuant to subdivision*
38 *(a) of Section 2059, less the amount specified in subparagraph (C)*
39 *of paragraph (1) of subdivision (a).*

1 (2) Upon appropriation by the Legislature, ~~the remainder of the~~
2 ~~registrant's annual registration fee collected pursuant to Section~~
3 ~~2059~~ *the moneys in this fund* shall be applied to costs incurred by
4 the commissioner in administering the provisions of this part and
5 enforcement and investigation of the car washing and polishing
6 industry.

7 (c) *The Department of Industrial Relations may establish by*
8 *regulation those procedures necessary to carry out the provisions*
9 *of this section.*

10 SEC. 83. *Section 4750 of the Penal Code is amended to read:*

11 4750. A city ~~or~~, county, or superior court shall be entitled to
12 reimbursement for reasonable and necessary costs connected with
13 state prisons or prisoners in connection with any of the following:

14 (a) Any crime committed at a state prison, whether by a
15 prisoner, employee, or other person.

16 With respect to a prisoner, "crime committed at a state prison"
17 as used in this subdivision, includes, but is not limited to, crimes
18 committed by the prisoner while detained in local facilities as a
19 result of a transfer pursuant to Section 2910 or 6253, or in
20 conjunction with any hearing, proceeding, or other activity for
21 which reimbursement is otherwise provided by this section.

22 (b) Any crime committed by a prisoner in furtherance of an
23 escape. Any crime committed by an escaped prisoner within 10
24 days after the escape and within 100 miles of the facility from
25 which the escape occurred shall be presumed to have been a crime
26 committed in furtherance of an escape.

27 (c) Any hearing on any return of a writ of habeas corpus
28 prosecuted by or on behalf of a prisoner.

29 (d) Any trial or hearing on the question of the sanity of a
30 prisoner.

31 (e) Any costs not otherwise reimbursable under Section 1557
32 or any other related provision in connection with any extradition
33 proceeding for any prisoner released to hold.

34 (f) Any costs incurred by a coroner in connection with the death
35 of a prisoner.

36 (g) Any costs incurred in transporting a prisoner within the host
37 county or as requested by the prison facility or incurred for
38 increased security while a prisoner is outside a state prison.

39 SEC. 84. *Section 4751 of the Penal Code is amended to read:*

1 4751. Costs incurred *by a city or county* include all of the
2 following:

3 (a) Costs of law enforcement agencies in connection with any
4 matter set forth in Section 4750, including the investigation or
5 evaluation of any of those matters regardless of whether a crime
6 has in fact occurred, a hearing held, or an offense prosecuted.

7 (b) Costs of *participation in* any trial or hearing of any matter
8 set forth in Section 4750, including costs for the preparation ~~of~~ *for*
9 the trial, pretrial hearing, actual trial or hearing, expert witness
10 fees, the costs of guarding or keeping the prisoner, the
11 transportation of the prisoner, the costs of appeal, and the
12 execution of the sentence. The cost of detention in a city or county
13 correctional facility shall include the same cost factors as are
14 utilized by the Department of Corrections in determining the cost
15 of prisoner care in state correctional facilities.

16 (c) The costs of the prosecuting attorney in investigating,
17 evaluating, or prosecuting cases related to any matter set forth in
18 Section 4750, whether or not the prosecuting attorney decides to
19 commence legal action.

20 (d) Costs incurred by the public defender or court appointed
21 attorney with respect to any matter set forth in Section 4750.

22 (e) Any other costs reasonably incurred by a county in
23 connection with any matter set forth in Section 4750.

24 SEC. 85. *Section 4751.5 is added to the Penal Code, to read:*
25 *4751.5. Costs incurred by a superior court include all of the*
26 *following:*

27 (a) *Costs of any trial or hearing of any matter set forth in*
28 *Section 4750, including costs for the preparation of the trial,*
29 *pretrial hearing, and the actual trial or hearing.*

30 (b) *Any other costs reasonably incurred by a superior court in*
31 *connection with any matter set forth in Section 4750.*

32 SEC. 86. *Section 4752 of the Penal Code is amended to read:*

33 4752. As used in this chapter, reasonable and necessary costs
34 shall be based upon all operating costs, including the cost of
35 elected officials, *except superior court judges*, while serving in
36 line functions and including all administrative costs associated
37 with providing the necessary services and securing reimbursement
38 therefor. Administrative costs include a proportional allowance
39 for overhead determined in accordance with current accounting
40 practices.

SEC. 87. *Section 4753 of the Penal Code is amended to read:*

4753. A city or county shall designate an officer or agency to prepare a statement of costs that shall be reimbursed under this chapter.

The statement shall be sent to the Controller for approval. *The statement may not include any costs that are incurred by a superior court, as described in Section 4751.5.* The Controller shall reimburse the city or county within 60 days after receipt of the statement or provide a written statement as to the reason for not making reimbursement at that time. If sufficient funds are not available, the Controller shall request the Director of Finance to include any amounts necessary to satisfy the claims in a request for a deficiency appropriation.

SEC. 88. *Section 4753.5 is added to the Penal Code, to read:*

4753.5. A superior court shall prepare a statement of costs that shall be reimbursed under this chapter. *The state may not include any costs that are incurred by a city or county, as described in Section 4751. The statement shall be sent to the Administrative Office of the Courts for approval and reimbursement.*

SEC. 89. *Section 5023.5 is added to the Penal Code, to read:*

5023.5. (a) *Notwithstanding any other provision of law, the Department of Corrections and the Department of the Youth Authority may contract with providers of emergency health care services. Hospitals that do not contract with the Department of Corrections or the Department of the Youth Authority for emergency health care services shall provide these services to these departments on the same basis as they are required to provide these services pursuant to Section 489.24 of Title 42 of the Code of Federal Regulations. Neither the Department of Corrections nor the Department of the Youth Authority shall reimburse a hospital that provides these services, and that the department has not contracted with, at a rate that exceeds the hospital's reasonable and allowable costs, regardless of whether the hospital is located within or outside of California.*

(b) *An entity that provides ambulance or any other emergency or nonemergency response service to the Department of Corrections or the Department of the Youth Authority, and that does not contract with the departments for that service, shall be reimbursed for the service at the rate established by Medicare. Neither the Department of Corrections nor the Department of the*

1 Youth Authority shall reimburse a provider of any of these services
2 that the department has not contracted with at a rate that exceeds
3 the provider's reasonable and allowable costs, regardless of
4 whether the provider is located within or outside of California.

5 (c) The Department of Corrections and the Department of the
6 Youth Authority shall work with the State Department of Health
7 Services in obtaining hospital cost information in order to
8 establish the costs allowable under this section. The State
9 Department of Health Services may provide the Department of
10 Corrections or the Department of the Youth Authority with hospital
11 cost information that the State Department of Health Services
12 obtains pursuant to Sections 14170 and 14171 of the Welfare and
13 Institutions Code.

14 (d) For the purposes of this section, "reasonable and allowable
15 costs" shall be defined in accordance with Part 413 of Title 42 of
16 the Code of Federal Regulations and federal Centers for Medicare
17 and Medicaid Services Publication Numbers 15.1 and 15.2.

18 SEC. 90. Section 6005 of the Penal Code is amended to read:

19 6005. (a) Whenever a person confined to a correctional
20 institution under the supervision of the Department of the Youth
21 Authority is charged with a public offense committed within the
22 confines of that institution and is tried for that public offense, ~~the~~
23 a city, county, or superior court shall be entitled to reimbursement
24 for reasonable and necessary costs connected with that matter.

25 (b) The appropriate financial officer or other designated
26 official of a county or the city finance officer of a city incurring any
27 costs in connection with that matter ~~must~~ shall make out a
28 statement of all the costs incurred by the county or city for the
29 investigation, ~~and~~ the preparation ~~of~~ for the trial, ~~and~~ participation
30 in the actual trial of the case, ~~and~~ ~~of~~ all guarding and keeping of
31 the person, ~~and~~ of the execution of the sentence of the person,
32 properly certified to by a judge of the superior court of the county.
33 The statement may not include any costs that are incurred by the
34 superior court pursuant to subdivision (c). The statement shall be
35 sent to the department for its approval. After the approval the
36 department must cause the amount of the costs to be paid out of the
37 money appropriated for the support of the department to the
38 county treasurer of the county or the city finance officer of the city
39 incurring those costs.

(c) *The superior court shall prepare a statement of all costs incurred by the court for the preparation of the trial and the actual trial of the case. The statement may not include any costs that are incurred by the city or county pursuant to subdivision (a). The statement shall be sent to the Administrative Office of the Courts for approval and reimbursement.*

SEC. 91. *Section 10108.8 is added to the Public Contract Code, to read:*

10108.8. *The Department of Corrections, where feasible, shall enter into two or more procurement contracts for the purchase and development of the Business Information System (BIS) Project. The BIS project shall be developed to allow integration with other relevant statewide financial and personnel systems.*

SEC. 92. *Section 25226 is added to the Public Resources Code, to read:*

25226. (a) *The Energy Technologies Research, Development, and Demonstration Account established under former Section 25683 is hereby continued in existence, in the General Fund, to be administered by the commission for the purpose of carrying out Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).*

(b) *The Controller shall deposit in the account all money appropriated to the account by the Legislature, plus accumulated interest on that money, and money from loan repayments, interest, and royalties pursuant to Sections 25630 and 25650, for use by the commission, upon appropriation by the Legislature, for the purposes specified in Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).*

SEC. 93. *Section 25630 of the Public Resources Code is amended to read:*

25630. (a) *The commission shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.*

~~(b) The loan program may use royalty agreements, as provided in Chapter 7.4 (commencing with Section 25645), to replenish program funds beyond the amount of loan repayment. Loan repayments, interest, and royalties shall be deposited in the Energy Technologies Research, Development, and Demonstration~~

1 Account. The interest rate shall be ~~determined as provided in~~
2 ~~subdivision (g) of Section 25647~~ *based on surveys of existing*
3 *financial markets and at rates not lower than the Pooled Money*
4 *Investment Account.*

5 SEC. 94. Section 26020 of the Public Resources Code is
6 amended to read:

7 26020. (a) The authority may incur indebtedness and issue
8 and renew negotiable bonds, notes, debentures, or other securities
9 of any kind or class. All indebtedness, however evidenced, shall
10 be payable solely from revenues of the authority and the proceeds
11 of its negotiable bonds, notes, debentures, or other securities, and
12 shall not exceed the sum of ~~three hundred fifty million~~ *one billion*
13 ~~dollars (\$350,000,000)~~ *(\$1,000,000,000)* of total debt
14 *outstanding. As*

15 (b) As used in this section, “total debt” ~~does not include~~
16 ~~indebtedness which debt outstanding~~ *does not include either of*
17 *the following:*

18 (1) A bond for which provisions have been made for
19 prepayment through irrevocable escrow or other means, so that the
20 bond is not considered outstanding under its authorizing
21 document.

22 (2) Indebtedness that is incurred to refund existing debts,
23 except to the extent that the indebtedness exceeds the amount of
24 those debts.

25 SEC. 95. Section 884.5 is added to the Public Utilities Code,
26 to read:

27 884.5. (a) This section shall apply to all customers eligible to
28 receive discounts for telecommunications services under the
29 federal Universal Service E-rate program administered by the
30 Schools and Libraries Division of the Universal Service
31 Administrative Company that also apply for discounts on
32 telecommunications service provided through the California
33 Teleconnect Fund program pursuant to subdivision (a) of Section
34 280.

35 (b) A teleconnect discount shall be applied after applying the
36 E-rate discount. The commission shall first apply the E-rate
37 discount, regardless of whether the customer has applied for the
38 E-rate discount or has been approved, if the customer, in the
39 determination of the commission, meets the eligibility
40 requirements for the E-rate discount.

1 (c) Notwithstanding subdivision (b), the teleconnect discount
2 shall be applied without regard to the E-rate discount for any
3 necessary small school, as defined in Section 42283 of the
4 Education Code, unless that school has applied for, and been
5 approved to receive, the E-rate discount.

6 (d) As a condition of participation in the California
7 Teleconnect Fund program, the commission shall require
8 customers eligible for the E-rate discount to provide the
9 commission with information necessary for the commission to
10 determine the percentage of the E-rate discount to which the
11 customer would be entitled. The commission may require that
12 customers update this information annually or if there is a material
13 change.

14 (e) In establishing any discount under the California
15 Teleconnect Fund program, the commission shall give priority to
16 bridging the ‘digital divide’ by encouraging expanded access to
17 state-of-the-art technologies for rural, inner-city, low-income,
18 and disabled Californians.

19 (f) As used in this section:

20 (1) “E-rate discount” means a discount under the E-rate
21 program.

22 (2) “E-rate program” means the federal Universal Service
23 E-rate program administered by the Schools and Libraries
24 Division of the Universal Service Administrative Company.

25 (3) “Teleconnect discount” means a discount on
26 telecommunications service provided through the California
27 Teleconnect Fund program set forth in subdivision (a) of Section
28 280.

29 (g) This section shall become operative on January 1, 2006.

30 SEC. 96. Section 63.1 of the Revenue and Taxation Code is
31 amended to read:

32 63.1. (a) Notwithstanding any other provision of this chapter,
33 a change in ownership shall not include the following purchases
34 or transfers for which a claim is filed pursuant to this section:

35 (1) The purchase or transfer of real property which is the
36 principal residence of an eligible transferor in the case of a
37 purchase or transfer between parents and their children.

38 (2) The purchase or transfer of the first one million dollars
39 (\$1,000,000) of full cash value of all other real property of an

1 eligible transferor in the case of a purchase or transfer between
2 parents and their children.

3 (3) (A) Subject to subparagraph (B), the purchase or transfer
4 of real property described in paragraphs (1) and (2) of subdivision
5 (a) occurring on or after March 27, 1996, between grandparents
6 and their grandchild or grandchildren, if all of the parents of that
7 grandchild or those grandchildren, who qualify as the children of
8 the grandparents, are deceased as of the date of purchase or
9 transfer.

10 (B) A purchase or transfer of a principal residence shall not be
11 excluded pursuant to subparagraph (A) if the transferee grandchild
12 or grandchildren also received a principal residence, or interest
13 therein, through another purchase or transfer that was excludable
14 pursuant to paragraph (1) of subdivision (a). The full cash value
15 of any real property, other than a principal residence, that was
16 transferred to the grandchild or grandchildren pursuant to a
17 purchase or transfer that was excludable pursuant to paragraph (2)
18 of subdivision (a) and the full cash value of a principal residence
19 that fails to qualify for exclusion as a result of the preceding
20 sentence shall be included in applying, for purposes of paragraph
21 (2) of subdivision (a), the one million dollar (\$1,000,000) full cash
22 value limit specified in paragraph (2) of subdivision (a).

23 (b) (1) For purposes of paragraph (1) of subdivision (a),
24 “principal residence” means a dwelling for which a homeowners’
25 exemption or a disabled veterans’ residence exemption has been
26 granted in the name of the eligible transferor. “Principal
27 residence” includes only that portion of the land underlying the
28 principal residence that consists of an area of reasonable size that
29 is used as a site for the residence.

30 (2) For purposes of paragraph (2) of subdivision (a), the one
31 million dollar (\$1,000,000) exclusion shall apply separately to
32 each eligible transferor with respect to all purchases by and
33 transfers to eligible transferees on and after November 6, 1986, of
34 real property, other than the principal residence, of that eligible
35 transferor. The exclusion shall not apply to any property in which
36 the eligible transferor’s interest was received through a transfer, or
37 transfers, excluded from change in ownership by the provisions of
38 either subdivision (f) of Section 62 or subdivision (b) of Section
39 65, unless the transferor qualifies as an original transferor under
40 subdivision (b) of Section 65. In the case of any purchase or

transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar (\$1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.

(2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death.

(3) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and

1 son-in-law or daughter-in-law shall be deemed to exist until the
2 marriage on which the relationship is based is terminated by
3 divorce, or, if the relationship is terminated by death, until the
4 remarriage of the surviving son-in-law or daughter-in-law.

5 (D) Any child adopted by the parent or parents pursuant to
6 statute, other than an individual adopted after reaching the age of
7 18 years.

8 (4) “Grandchild” or “grandchildren” means any child or
9 children of the child or children of the grandparent or
10 grandparents.

11 (5) “Full cash value” means full cash value, as defined in
12 Section 2 of Article XIII A of the California Constitution and
13 Section 110.1, with any adjustments authorized by those sections,
14 and the full value of any new construction in progress, determined
15 as of the date immediately prior to the date of a purchase by or
16 transfer to an eligible transferee of real property subject to this
17 section.

18 (6) “Eligible transferor” means a grandparent, parent, or child
19 of an eligible transferee.

20 (7) “Eligible transferee” means a parent, child, or grandchild
21 of an eligible transferor.

22 (8) “Real property” means real property as defined in Section
23 104. Real property does not include any interest in a legal entity.

24 (9) “Transfer” includes, and is not limited to, any transfer of
25 the present beneficial ownership of property from an eligible
26 transferor to an eligible transferee through the medium of an inter
27 vivos or testamentary trust.

28 (10) “Social security number” also includes a taxpayer
29 identification number issued by the Internal Revenue Service in
30 the case in which the taxpayer is a foreign national who cannot
31 obtain a social security number.

32 (d) (1) The exclusions provided for in subdivision (a) shall not
33 be allowed unless the eligible transferee, the transferee’s legal
34 representative, or the executor or administrator of the transferee’s
35 estate files a claim with the assessor for the exclusion sought and
36 furnishes to the assessor each of the following:

37 (A) A written certification by the transferee, the transferee’s
38 legal representative, or the executor or administrator of the
39 transferee’s estate, signed and made under penalty of perjury that
40 the transferee is a grandparent, parent, child, or grandchild of the

transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee and that the transferor is seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) A written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each eligible transferor, and the names of the eligible transferees of that property.

(D) If there are multiple transferees, the certification and signature may be made by any one of the transferees, if both of the following conditions are met:

1 (i) The transferee has actual knowledge that, and the
2 certification signed by the transferee states that, all of the
3 transferees are eligible transferees within the meaning of this
4 section.

5 (ii) The certification is signed by the transferee as a true
6 statement made under penalty of perjury.

7 (2) If the full cash value of the real property purchased by or
8 transferred to the transferee exceeds the permissible exclusion of
9 the transferor or the combined permissible exclusion of the
10 transferors, in the case of a purchase or transfer from two or more
11 joint transferors, taking into account any previous purchases by or
12 transfers to an eligible transferee from the same transferor or
13 transferors, the transferee shall specify in his or her claim the
14 amount and the allocation of the exclusion he or she is seeking.
15 Within any appraisal unit, as determined in accordance with
16 subdivision (d) of Section 51 by the assessor of the county in which
17 the real property is located, the exclusion shall be applied only on
18 a pro rata basis, however, and shall not be applied to a selected
19 portion or portions of the appraisal unit.

20 (e) (1) The State Board of Equalization shall design the form
21 for claiming eligibility. Except as provided in paragraph (2), any
22 claim under this section shall be filed:

23 (A) For transfers of real property between parents and their
24 children occurring prior to September 30, 1990, within three years
25 after the date of the purchase or transfer of real property for which
26 the claim is filed.

27 (B) For transfers of real property between parents and their
28 children occurring on or after September 30, 1990, and for the
29 purchase or transfer of real property between grandparents and
30 their grandchildren occurring on or after March 27, 1996, within
31 three years after the date of the purchase or transfer of real property
32 for which the claim is filed, or prior to transfer of the real property
33 to a third party, whichever is earlier.

34 (C) Notwithstanding subparagraphs (A) and (B), a claim shall
35 be deemed to be timely filed if it is filed within six months after
36 the date of mailing of a notice of supplemental or escape
37 assessment, issued as a result of the purchase or transfer of real
38 property for which the claim is filed.

39 (2) In the case in which the real property subject to purchase or
40 transfer has not been transferred to a third party, a claim for

1 exclusion under this section that is filed subsequent to the
2 expiration of the filing periods set forth in paragraph (1) shall be
3 considered by the assessor, subject to all of the following
4 conditions:

5 (A) Any exclusion granted pursuant to that claim shall apply
6 commencing with the lien date of the assessment year in which the
7 claim is filed.

8 (B) Under any exclusion granted pursuant to that claim, the
9 adjusted full cash value of the subject real property in the
10 assessment year described in subparagraph (A) shall be the
11 adjusted base year value of the subject real property in the
12 assessment year in which the excluded purchase or transfer took
13 place, factored to the assessment year described in subparagraph
14 (A) for both of the following:

15 (i) Inflation as annually determined in accordance with
16 paragraph (1) of subdivision (a) of Section 51.

17 (ii) Any subsequent new construction occurring with respect to
18 the subject real property.

19 (3) (A) Unless otherwise expressly provided, the provisions of
20 this subdivision shall apply to any purchase or transfer of real
21 property that occurred on or after November 6, 1986.

22 (B) Paragraph (2) shall apply to purchases or transfers between
23 parents and their children that occurred on or after November 6,
24 1986, and to purchases or transfers between grandparents and their
25 grandchildren that occurred on or after March 27, 1996.

26 (4) For purposes of this subdivision, a transfer of real property
27 to a parent or child of the transferor shall not be considered a
28 transfer to a third party.

29 (f) The assessor ~~shall~~ may report quarterly to the State Board
30 of Equalization all purchases or transfers, other than purchases or
31 transfers involving a principal residence, for which a claim for
32 exclusion is made pursuant to subdivision (d). Each report shall
33 contain the assessor's parcel number for each parcel for which the
34 exclusion is claimed, the amount of each exclusion claimed, the
35 social security number of each eligible transferor, and any other
36 information the board ~~shall~~ may require in order to monitor the one
37 million dollar (\$1,000,000) limitation in paragraph (2) of
38 subdivision (a).

39 (g) This section shall apply to both voluntary transfers and
40 transfers resulting from a court order or judicial decree. Nothing

1 in this subdivision shall be construed as conflicting with paragraph
2 (1) of subdivision (c) or the general principle that transfers by
3 reason of death occur at the time of death.

4 (h) (1) Except as provided in paragraph (2), this section shall
5 apply to purchases and transfers of real property completed on or
6 after November 6, 1986, and shall not be effective for any change
7 in ownership, including a change in ownership arising on the date
8 of a decedent's death, that occurred prior to that date.

9 (2) This section shall apply to purchases or transfers of real
10 property between grandparents and their grandchildren occurring
11 on or after March 27, 1996, and, with respect to purchases or
12 transfers of real property between grandparents and their
13 grandchildren, shall not be effective for any change in ownership,
14 including a change in ownership arising on the date of a decedent's
15 death, that occurred prior to that date.

16 (i) *In recognition of the state and local interests served by the*
17 *action made optional in subdivision (f), the Legislature*
18 *encourages local agencies to continue taking the action formerly*
19 *mandated by this section. However, nothing in this subdivision*
20 *may be construed to impose any liability on a local agency that*
21 *does not continue to take the formerly mandated action.*

22 SEC. 97. *Section 2514 of the Revenue and Taxation Code is*
23 *amended to read:*

24 2514. (a) Upon receipt of a certificate of eligibility described
25 in Section 20602, Section 20639.6, or Section 20640.6 signed by
26 the claimant, the claimant's spouse, or authorized agent appointed
27 under regulations adopted by the Controller pursuant to Section
28 20603 or Section 20640.7, the tax collector shall ascertain whether
29 the amount of money entered on the certificate by such claimant
30 or agent, when added to other amounts available for such purpose,
31 are sufficient to pay the amount due and owing.

32 If such is the case, the tax collector or his or her designee shall
33 countersign the certificate and mark the tax paid. Once signed and
34 countersigned, a certificate of eligibility shall be deemed a
35 negotiable instrument for purposes of all laws of this state, as
36 specified in subdivision (d) of Section 20602. Upon acceptance of
37 such a certificate:

38 (1) The tax collector shall enter the fact that taxes on the
39 property have been postponed in appropriate columns on the roll.
40 In the case of the secured roll, this information may be entered in

that portion of the roll which has been designated for tax default information required by Section 3439.

(2) In the case of a certificate of eligibility issued pursuant to Section 20602, the tax collector shall determine if the property described in the certificate of eligibility is subject to a lien recorded pursuant to Section 16182 of the Government Code. If the property is not subject to such a lien, the tax collector shall enter the amount paid by use of the certificate, the date of such payment, the Controller's identification number shown on the certificate of eligibility, the address of the property covered by the certificate, and the name of the claimant as shown on the certificate on a "notice of lien for postponed property taxes" form which shall be provided by the Controller. The tax collector shall thereafter forward such notice of lien form to the assessor.

(3) With respect to a claimant whose property taxes are paid by a lender from an impound, trust, or other type of account described in Section 2954 of the Civil Code, the tax collector shall notify the auditor of the claimant's name and address, and the amount of money entered on the certificate.

The auditor, treasurer, or disbursing officer shall send a check in the amount of money entered on the certificate to said claimant within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received from the claimant, whichever is later.

(b) The procedures established by this chapter shall not be construed to require a lender to alter the manner in which a lender makes payment of the property taxes of such claimant.

(c) Notwithstanding any other provision in this section, any action required of a local agency by this section in order to give effect to the Senior Citizens Mobilehome Property Tax Postponement Law (Chapter 3.3 (commencing with Section 20639) of Part 10.5 of Division 2, and that has been determined by the Commission on State Mandates to be a reimbursable mandate, shall be optional.

SEC. 98. Section 8352 of the Revenue and Taxation Code is amended to read:

8352. Subject to the provisions of any budget bill heretofore or hereafter enacted and ~~Section 11006 of the Government Code,~~ the money deposited to the credit of the Motor Vehicle Fuel

1 Account is hereby appropriated for expenditure, allocation, or
2 transfer as provided in this chapter.

3 *SEC. 99. Section 30462 of the Revenue and Taxation Code is*
4 *amended to read:*

5 30462. (a) All money deposited in the Cigarette Tax Fund
6 under this part is hereby appropriated, subject to the provisions of
7 any budget bill heretofore or hereafter enacted ~~and Section 11006~~
8 ~~of the Government Code~~, and shall, upon order of the Controller,
9 be drawn therefrom and allocated for the following purposes:

10 (1) To pay the refunds authorized by this part.

11 (2) The balance remaining in the fund shall be transferred to the
12 General Fund of this state on or before the last calendar day of each
13 month.

14 (b) It is the intent of the Legislature that Section 30111
15 continues to prohibit the imposition of local taxes by any city,
16 charter city, town, county, charter county, city and county, charter
17 cities and counties, or other political subdivision or agency of this
18 state, on the sale, use, ownership, holding, or other distribution of
19 cigarettes and tobacco products except as provided by Section
20 30111. The Legislature finds and declares that the need for
21 uniform statewide regulation and collection of cigarette taxes is a
22 matter of statewide concern, and it is the Legislature's intent to
23 regulate the subject matter of cigarette taxes comprehensively and
24 to occupy the field to the exclusion of local action except as
25 specifically provided by Section 30111.

26 *SEC. 100. Section 1587 of the Unemployment Insurance Code*
27 *is amended to read:*

28 1587. No expenditure for administration shall be made from
29 the Contingent Fund ~~except under an authorization made by the~~
30 ~~Director of Finance in the manner prescribed in Section 11006 of~~
31 ~~the Government Code. No such authorization shall be made as a~~
32 ~~substitution for a grant of federal funds, or for any portion thereof,~~
33 ~~which in the absence of the authorization would be available to the~~
34 ~~department.~~

35 *SEC. 101. Section 21401 of the Vehicle Code is amended to*
36 *read:*

37 21401. (a) Except as provided in Section 21374, only those
38 official traffic control devices that conform to the uniform
39 standards and specifications promulgated by the Department of
40 Transportation shall be placed upon a street or highway.



(b) Any traffic signal controller that is newly installed or upgraded by the Department of Transportation ~~or a local authority after January 1, 1996,~~ shall be of a standard traffic signal communication protocol capable of two-way communications. A *local authority may follow this requirement.*

(c) *Notwithstanding any other provision of this section, the training required by this section shall be optional for local agencies. In recognition of the state and local interests served by the action made optional in this section, the Legislature encourages local agencies to continue taking the action formerly mandated by this section. However, nothing in this subdivision may be construed to impose any liability on a local agency that does not continue to take the formerly mandated action.*

SEC. 102. *Section 42272 of the Vehicle Code is repealed.*
~~42272. Section 11006 of the Government Code shall not apply to the Motor Vehicle Account in the State Transportation Fund.~~

SEC. 103. *Section 3 of Chapter 899 of the Statutes of 1995 is amended to read:*

Sec. 3. The sum of four million four hundred thousand dollars (\$4,400,000) is appropriated from the California Residential Earthquake Recovery Fund to the Department of Insurance for the program established pursuant to this act. During the second half of the 1995–96 fiscal year, the Department of Insurance may use up to one hundred fifty-nine thousand dollars (\$159,000) for costs of initial implementation and administration of the program. During the 1996–97 and 1997–98 fiscal years, no more than two hundred thousand dollars (\$200,000) per fiscal year may be used by the department to administer this program. During the 1998–99 through 2002–03 fiscal years, no more than two hundred sixty-five thousand dollars (\$265,000) per fiscal year may be used by the department to administer this program. Thereafter, no more than two hundred ninety thousand dollars (\$290,000)” per fiscal year may be used by the department to administer the program.

Money appropriated by this section shall be available for expenditure until ~~July 1, 2007~~ *July 1, 2004.* ~~On and after that date, the program established by Chapter 899 of the Statutes of 1995 shall no longer be operative.~~

SEC. 104. *Section 30 of Chapter 573 of the Statutes of 2003 is amended to read:*

1 Sec. 30. (a) Notwithstanding the inoperation and repeal,
2 pursuant to Section 69999.5 of the Education Code, of the
3 Governor's Scholars Program and the Governor's Distinguished
4 Mathematics and Science Scholars Program, the Scholarshare
5 Investment Board may continue to administer the scholarship
6 accounts established pursuant to those programs for scholarships
7 that were authorized and awarded prior to ~~July~~ January 1, 2003.
8 The Scholarshare Investment Board may administer those
9 accounts in accordance with Article 20 (commencing with Section
10 69995) of Chapter 2 of Part 42 of the Education Code, as it read
11 on January 1, 2003, for the duration of the scholarship awards
12 including, but not limited to, dispensing qualified withdrawals of
13 awards.

14 (b) *Notwithstanding subdivision (a), Article 20.5 (commencing*
15 *with Section 69999.6) of Chapter 2 of Part 42 of the Education*
16 *Code shall govern the administrative responsibilities of the*
17 *Scholarshare Investment Board with respect to the Governor's*
18 *Scholarship Programs on and after the date that Article 20.5*
19 *(commencing with Section 69999.6) of Chapter 2 of Part 42 of the*
20 *Education Code becomes operative.*

21 SEC. 105. *The state office building in the City of Fresno for*
22 *the California Court of Appeal, Fifth Appellate District, shall be*
23 *named and known as the "George N. Zenovich Court of Appeal*
24 *Building."*

25 SEC. 106. *It is the intent of the Legislature that the*
26 *amendments to Sections 71601, 71636, and 71823 of the*
27 *Government Code made by this act are technical and clarifying of*
28 *existing law.*

29 SEC. 107. (a) *The Deficit Recovery Fund is hereby*
30 *established in the State Treasury.*

31 (b) *Proceeds of the bonds issued pursuant to the Economic*
32 *Recovery Bond Act (Title 18 (commencing with Section 99050) of*
33 *the Government Code) adopted by the voters at the March 2, 2004,*
34 *statewide primary election, accrued as 2003–04 fiscal year*
35 *revenues, and deposited in the General Fund from the Economic*
36 *Recovery Fund pursuant to Section 99060 of the Government*
37 *Code, are hereby appropriated from the General Fund for transfer*
38 *by the Controller for the 2003–04 fiscal year to the Deficit*
39 *Recovery Fund, upon approval by the Director of Finance.*

(c) *The Director of Finance shall use the moneys transferred to the Deficit Recovery Fund pursuant to this section to reimburse General Fund expenditures, to reflect savings at a statewide level, for the 2003–04 and 2004–05 fiscal years.*

(d) *Moneys in the Deficit Recovery Fund may be borrowed for General Fund cashflow purposes as authorized by Sections 16310 and 16418 of the Government Code.*

SEC. 109. *Notwithstanding any other provision of law, the Commission on State Mandates shall reconsider former State Board of Control decisions 3916, 3759, 3760, and 3929 regarding the regional housing needs mandate enacted by Chapter 1143 of the Statutes of 1980 to determine whether the statute is a reimbursable mandate under Section 6 of Article XIII B of the California Constitution in light of federal and state statutes enacted and federal and state court decisions rendered since this statute was enacted, including the existence of fee authority pursuant to Section 65584.1 of the Government Code. The commission, if necessary, shall revise its parameters and guidelines to be consistent with this reconsideration. Any changes by the commission shall be deemed effective July 1, 2004.*

SEC. 110. *The Commission on State Mandates shall amend the appropriate parameters and guidelines, and the Controller shall revise the appropriate reimbursement claiming instructions to be consistent with this act.*

SEC. 111. (a) *The sum of two million eight hundred thousand dollars (\$2,800,000) is hereby appropriated from the Property Acquisition Law Money Account to the Department of General Services for the 2004–05 fiscal year, for activities associated with the disposal of surplus state property pursuant to Section 11011.10 of the Government Code, as added by Section 34 of this act.*

(b) *The balance of any funds appropriated pursuant to subdivision (a) that remain unencumbered on June 30, 2005, shall revert to the Property Acquisition Law Money Account as of that date.*

SEC. 112. *Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the*

1 *claim for reimbursement does not exceed one million dollars*
2 *(\$1,000,000), reimbursement shall be made from the State*
3 *Mandates Claims Fund.*

4 *SEC. 113. This act is an urgency statute necessary for the*
5 *immediate preservation of the public peace, health, or safety*
6 *within the meaning of Article IV of the Constitution and shall go*
7 *into immediate effect. The facts constituting the necessity are:*

8 *In order to make the necessary changes to implement the Budget*
9 *Act of 2004 it is necessary that this act take effect immediately.*

